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Cayman Islands

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I. General

1. The Territory of the Cayman Islands[1] is located some 180 miles west of Jamaica and about the same distance south of Cuba. It comprises three islands: Grand Cayman (76 square miles), Cayman Brac (15 square miles) and the adjacent and largely undeveloped Little Cayman (11 square miles).

2. According to the latest (1999) census, the population of the Territory was 39,410, about 55 per cent higher than the 25,355 residents recorded in the 1989 census. Caymanians make up about 53 per cent of the population, a decline from 67 per cent in 1989. In 10 years, the non-Caymanian population has about doubled, from 8,387 in 1989 to 18,529. An estimated 25 per cent are of African descent, 20 per cent are of European descent and the remainder are mixed. At the time of the census, of 25,506 persons employed in the labour force, 10,629 or 42 per cent were Caymanian. The average annual per capita income was $20,000. Caymanians on average earned $31,751 while non-Caymanians averaged $29,735. Male residents earned on average $36,584 and females $24,940.[2]

II. Constitutional and legal issues

3. The Cayman Islands is a Non-Self-Governing Territory (Overseas Territory) under the administration of the United Kingdom of Great Britain and Northern Ireland. The Constitution of 1959 was revised in 1972, 1992 and 1994. Under the Constitution, the Governor, who is appointed for four years by the British monarch, is responsible for external affairs, defence, internal security and public service. The Governor is the Chairman of the Executive Council, which comprises three members appointed by the Governor, namely the Chief Secretary (until 1992, the Administrative Secretary), the Financial Secretary and the Attorney-General, and five members elected by the Legislative Assembly. It is responsible for the administration of government. The Governor assigns ministerial portfolios to the elected members of the Executive Council. The Legislative Assembly comprises three official members designated in the Constitution and 15 members elected by universal adult suffrage for a period of four years. Since 1991, a Speaker is elected to preside over the Assembly.

4. The Governor of the Cayman Islands, Bruce Dinwiddy, was appointed in May 2002.

5. The judicial system is based on British common law, certain British statutes and local statute law. There is the Grand Court (with Supreme Court status) and the Summary Court, which includes criminal, civil, family, youth and coroner's court. Appeals lie with the Court of Appeal of the Cayman Islands and beyond that with the Privy Council in London.

6. In March 1999, the Government of the United Kingdom issued a White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories". The legislation proposed the extension of British citizenship to the citizens of the Territories; at the same time, it required the Territories to conduct a constitutional review and to amend their local legislation, in particular on human rights and on the regulation of financial services to meet international standards. The bill became the British Overseas Territories Act 2002 in May 2002.

III. Political developments

A. General

7. Until recently, there were no formal political parties in the Territory and the following loose groupings acted as political organizations: National Team, Democratic Alliance and Team Cayman. The general elections held on 8 November 2000, with a record number of 57 candidates running independently, ended the eight-year rule of the National Team, which lost six of its nine seats in the Legislative Assembly. The newly elected Assembly appointed Kurt Tibbetts of the Democratic Alliance as Leader of Government Business.

8. On 5 November 2001, a majority of the Legislative Assembly members formed a political party, the United Democratic Party. Three days later, the Legislative Council voted nine to five (with one abstention) in favour of a no-confidence motion against Mr. Tibbetts, thus dismissing him as a leader of the Executive Council. The post of the Leader of Government Business went to the former Minister of Tourism, McKeeva Bush, of the United Democratic Party. Those developments were followed by some political pressure for early elections, in particular by a group called "Concerned Caymanians". However, the new leader of the Government declared that there would be no new elections before those due in November 2004.[3]

9. According to information provided by the administering Power, the Strategic Policy Statement for the financial year 2003-2004 indicates the Government's goal of promoting economic growth, improving the standard of education and increasing government efficiency. The priorities are formulated along the following objectives:

(1) A strong economy that generates employment, income and a high standard of living;

(2) A healthy resident population;

(3) A socially protected resident population;

(4) A strong Caymanian community and culture;

(5) An environment protected for the use of current and future generations;

(6) A well-educated and vocationally trained resident population;

(7) A safe and secure country for residents and visitors;

(8) Open, efficient and accountable Government;

(9) Young persons positively involved in the community;

(10) Strong family units;

(11) Economically and socially vibrant sister islands.

B. Constitutional review

10. As reported in the previous working paper (A/AC.109/2002/7, paras. 11-14), in 2001 a Constitutional Review Commission was appointed by the Governor. The Commission organized a series of public meetings in order to hear what, if any, changes Caymanians wanted to be included in the new Constitution.

11. According to the information provided by the administering Power, in May 2002, the Report of the Constitutional Modernization Review Commissioners 2002 was submitted to the Governor together with a draft constitution. It is a public document and subject to debate in the Legislative Assembly before being submitted to the British authorities. A draft law seeks to bring into effect any new or amended Constitution as soon as possible prior to the 2004 general election.

12. The report states that the Constitutional Review Commission is satisfied that as a result of public meetings, media coverage, various awareness campaigns and surveys, the entire population of the Territory is aware of the Constitutional Modernization Review Process and has been able to express its views. At the same time, the estimated number of registered voters who attended the meetings or answered the questionnaire was low. The Commission considers the "disappointing" number of electors as symptomatic of the reluctance of most Caymanians to make their views publicly known.

13. As reflected in the report, the majority of the registered electors wish to continue their status as British Overseas Territories citizens. However, many want the Constitution to include a definition of Caymanian citizenship. According to the overall consensus, the new Constitution should provide for a Government that is more responsible and accountable to the people of the Cayman Islands. With respect to the options of independence and full internal self-government, the majority supports retention of the Westminster model with one legislature and with increased local autonomy. While there were no specific recommendations to change the powers of the Governor, the report called for inclusion of an independent advisory committee in relation to the exercise of those powers.

14. With regard to the inclusion of a bill of rights as an integral part of the Constitution, the report found that that need was generally accepted by the population. Concerns, however, were expressed on the section dealing with freedom of religion, as the majority of the Caymanians considered it to be contrary to Christian beliefs and practices predominant in the Territory. Consequently, changes have been made in the draft to harmonize local practices and international obligations.

15. The issue that provoked the most debate was the composition of the Executive Council and the idea of introducing a full ministerial system of government. The Commission recommends that the Executive Council consist of the Attorney General, who may be either an elected or an ex officio member, the Chief Minister and not more than six elected ministers.

16. With regard to the Legislative Assembly, the report recommends that the size of the legislature should remain unchanged. The Commission recommends that the Territory be divided into 17 single-member electoral constituencies with each constituency returning one candidate having one vote to the Legislative Assembly. The Commission also recommends that the qualifications for election to the Legislative Assembly be confined to Caymanians, as so defined, in addition to the usual qualifications for domicile and residence.

17. Consistent with the intention to have a full ministerial system of government and the appointment of a Chief Minister, the Commission also proposes the appointment of a leader of the opposition. The Commission further recommends the replacement of the Financial Secretary in the Executive Council by an elected

minister of finance and the establishment of a finance committee, chaired by the minister of finance, assuming the responsibility for the portfolio of finance.

18. With regard to the judiciary, concern has been expressed about the need to protect the independence of the judiciary by separating it from the executive power. To achieve that goal, the Commission proposes to introduce a judicial service commission, which will recommend the appointment of officers of the Grand Court.

19. The report emphasizes the importance of fostering good relations between the political arm of government and the civil service. It emphasizes the need for a strong and independent Public Service Commission with more than advisory functions.

IV. Economic conditions

A. General

20. The Cayman Islands has one of the highest standards of living in the Caribbean. The economy is based on tourism and on the Islands' status since 1966 as an international offshore finance centre. The principal sources of government revenue are import duties, company, bank and trust licence fees and stamp duties. There is no income tax, company tax or excise duty. Although imports outstrip exports by about 100 to 1, the visible trade gap is more than offset by invisible earnings from the tourism and financial services sectors.

21. After a slowdown in 2001, economic activity improved in the Cayman Islands in 2002, with consumer spending driving industrial production and international trade. The three major indicators of the domestic economy, gross domestic product (GDP), unemployment and inflation, confirm a gradual improvement of the economy. Preliminary results from the National Income Survey show a projected growth rate of 1.7 per cent for 2002, compared to the estimated 0.6 per cent growth rate for 2001. According to the Labour Force Survey, unemployment dropped from 7.5 per cent in October 2001 to 5.7 per cent in October 2002. The inflation rate increased slightly in the first three quarters of 2002, but remains at a modest 2.9 per cent.

22. Based on the anticipated economic recovery of the United States, growth in the Cayman Islands is expected to increase from an estimated 1.7 per cent in 2002 to 2.3 per cent in 2003. Inflation is forecast at a modest 2.5 per cent in 2003 and unemployment is expected to decline slightly from 5.7 percent in 2002 to 5.5 percent in 2003.

23. According to the information provided by the administering Power, the Leader of Government Business and Minister for Tourism, Environment, Development and Commerce presented in November 2002 a comprehensive plan entitled "The Cayman Islands: a Centre of Excellence for the Twenty-first Century". The plan covers the period 2003-2005 and is described as "very much a refocusing and revitalization effort" by the Government "to produce value in a new operating environment". It covers the creation of international opportunities for the Territory, the maintenance of a responsive institutional and legislative framework, the areas of tourism, e-business, marketing and incentives and the maximization of participation and building capacity.

24. The plan underlines the importance of careful consideration in the coming 15 months of Tax Information Exchange Agreements with a number of countries members of the Organisation of Economic Cooperation and Development (OECD) in order to promote Cayman Islands financial services.

25. To promote a regulatory framework for the financial industry, the Government has approved the establishment by the end of 2003 of a securities commission, which will assume regulatory responsibility for the Mutual Funds Law, the Securities Investment Business Law and the Stock Exchange Company Law (see also section IV.F on financial services). The Government will also focus on the General Registry to ensure the necessary level of investment in human and computer resources.

26. In regard to the development of new legislation, the Government plans to focus on new corporate products, new concessions under the landholdings Share Transfer Law, enhancements to the shipping registry legislation and general enhancements to the Companies Law. It plans also to undertake a comprehensive review of existing policies and procedures affecting the financial services sector.

27. In order to enhance product delivery mechanisms and access to business intelligence and business development ideas from the international market, the Government will refocus its efforts on maintaining a strong partnership with the private sector. It will also establish a high-level policy advisory board with international expertise and experience.

28. As part of the "Red Carpet Reform", the Government plans to develop a new immigration law, policy and procedures for implementation in 2003. In order to attract high net-worth individuals to invest and become residents in the Cayman Islands, a fast track work permit procedure for essential skilled professionals is to be introduced. Fair and transparent provisions for the acquisition of permanent residency are to be established.

29. The Government is also committed to the improvement of services for local and foreign investors and other key business personnel, assisting them in identifying and satisfying the relevant requirements for doing business in the Cayman Islands. For those purposes, the CayPass card was introduced in October 2002. The CayPass entitles business visitors in financial services to dedicated immigration and customs lines, a 15 per cent discount on Cayman Airways tickets and other privileges. The card also serves as proof upon entry into the Cayman Islands that the holder does not require a temporary work permit when travelling to the Cayman Islands for business meetings.[4]

B. Budget

30. In his budget address of 2002, provided by the administering Power, the Financial Secretary stated that the estimated out-turn for the 2002 financial year indicates an operating surplus of around (all amounts are in United States dollars) $40.5 million, down $5 million from the 2002 budget forecast. However, the overall surplus for 2002 is estimated to be just over $28 million, which is $17.3 million better than the budget projections, mainly as a result of better than forecast repayments of debt in 2002.

31. The financial estimates for 2003 project a cash operating surplus of $43,104,000, a deficit on balance sheet activity of $21,061,000 and an overall surplus of $22,043,000. The Government expects to collect approximately $184.3 million in revenue in the 2003 part of the financial year. The total operating expenditure is forecast to be $141,141,000 in the 2003 part of the financial year, that is, 3.8 per cent more than the equivalent period for 2002. Total budgeted balance sheet expenditure for the 2003 part of the financial year amounts to $16,303,000. That is comprised of $1,596,000 of capital acquisitions, $7,359,000 of capital development, $7,099,000 of equity injections and a small amount of loans-made. The forecasts allow for public debt repayments of $5,453,000 and no new borrowing, resulting in an overall reduction in net public debt of the same amount. The total cash balances at 30 June 2003 are projected to be $60,553,000. In relation to Principles of Responsible Financial Management, the budget forecasts comply in most respects.

32. In order to implement the key strategic priorities (detailed in para. 9 above), the Government has planned for the following operating expenditures: $27,694,000 for a strong economy; $26.7 million for a healthy and socially protected resident population; $4,025,000 for a strong Caymanian community and culture; $1,002,000 for the protection of the environment; $21,648,000 for a well-educated and vocationally trained resident population; and $26,184,000 for a safe and secure country for residents and visitors. Additionally, the budget provides $32,545,000 of funding for the day-to-day functioning of the public sector.

33. The Government bases its budget on the following financial principles: generating operating surpluses sufficient to cover all short-term expenditures; tight control over aggregate operating expenditure; restricting capital development expenditure; reducing the overall amount of public debt; and maintaining reserves at existing levels and allocating any unforecast revenue or surplus to reserves.

C. Agriculture, livestock and fisheries

34. Agricultural activities, limited by infertile soil, low rainfall and high labour costs, have nearly doubled over the past five or six years, with 10 large farms totalling over 100 acres now in service. Agricultural products include bananas, tomatoes, lettuce, honey, mangoes, citrus fruits, various vegetables and coconuts. Livestock rearing consists of beef cattle, poultry and pigs. According to information provided by the administering Power, the value of domestic agricultural products produced in 2000 was $1.8 million, an increase of 13.4 per cent from 1999. The largest increases were in meat and livestock produce (26 per cent), juice (18 per cent) and fruit (11 per cent). According to the Strategic Policy Statement for the financial year 2003-2004, the Government is planning to promote the development of the aquaculture industry to support economic diversification.

D. Tourism

35. The tourism sector dominates the Caymanian economy, accounting for about 70 per cent of the gross domestic product and 75 per cent of foreign currency earnings.

36. As of September 2002 total tourist arrivals for the year amounted to 1,416,861. That figure represented a 23.4 per cent increase over the previous year. While cruise arrivals increased, stay-over visitors continued to show a decline. The number of cruise ship passengers visiting the Cayman Islands showed an impressive growth of 34.2 percent, as they increased from 881,436 in 2001 to 1,183,178 in 2002.

37. According to the Leader of Government Business[5] the policy objective for the tourism sector in 2003 is to enhance existing services and create innovative tourist attractions. Measures in that area will include port and island-wide landscape beautification programmes, human resources retraining and the improvement of customs and immigration services for more efficient processing of arriving passengers. The Government is also striving to increase marketing and incentives for the tourism sector and to explore the possibility of increasing a number of high-income stay-over visitors from Europe. It plans to create incentives for the development of new tourism facilities and the establishment of special areas for five-star boutique hotels.[6]

38. The Government is specifically directing its efforts towards raising the number of stay-over visitors. The 2003-2004 budget outlines several new initiatives to that end, including a $1.5 million television advertising campaign, which will be mounted on United States national cable networks.

39. Major planned capital developments related to tourism include beginning the construction of a new tourism hospitality centre, renovation of the craft market and development of the infrastructure through the construction and improvement of roads, totalling $2,695,000.

40. Throughout 2003 there will be numerous cultural and sporting festivals to celebrate the quincentennial anniversary of the founding of the Cayman Islands. Special vacation packages will also be offered during the year.[7]

E. Financial services

41. As reported in the previous working paper (A/AC.109/2002/7, paras. 32-33), the Cayman Islands remains among the top international financial centres, with 48 of the world's top 50 banks holding licences there. The banking sector employs more than a tenth of the labour force and contributes 15.5 per cent of GDP. In the first three quarters of 2002, the financial services industry again recorded healthy growth. Mutual funds continued strong growth of 21 per cent in 2002, with registrations increasing from 3,474 in September 2001 to 4,187 in September 2002. The number of insurance licences increased by 7 per cent, from 564 in September 2001 to 605 in September 2002. Another 30 companies are presently under review. The total number of stock exchange listed issues, net of maturities, reached 690, compared to 418 as of 31 December 2001. However, new company registrations and class B bank licences declined relative to 2001 figures. The number of companies registered during the first three quarters of 2002 was 5,275, a decline of 21 per cent when compared to the 6,680 new registrations for the same period in 2001. The net position is still one of growth. At 31 August 2002, there were 63,390 companies on the register, a 14 per cent increase over 31 August 2001.

42. The number of bank and trust licences fell from 536 in September 2001 to 518 in September 2002. The reductions were primarily in the class B category, which

was affected by the statutory requirement introduced in April 2001 that private banks establish physical presences to the degree appropriate to their activities or surrender their licences. Despite the fall in the number of licences, total assets in the banking and trust sector rose from US$ 706 billion in June 2001 to US$ 980 billion in June 2002.

43. As reported in previous working papers (see A/AC.109/2001/15, paras. 34-41 and A/AC.109/2002/7, paras. 34-37), the Cayman Islands had been included in a list of countries and jurisdictions whose financial practices were conducive to tax evasion and money-laundering by OECD. The Government of the Cayman Islands has made considerable efforts to improve its legislation in keeping with the Territory's status as one of the major international financial centres and its sound business reputation.

44. During the period under review, the Territory continued to perfect its regulatory mechanism. In January 2002, the Cayman Islands passed the Securities Investment Business Law 2001. The new law regulates the conduct of securities investment business in and from the Cayman Islands and brings brokers, investment advisers, investment managers and market makers under regulatory supervision by the Cayman Islands Monetary Authority (CIMA). CIMA is responsible for business regulation, prudential regulation, on-site inspections and money-laundering regulation of such licensees.

45. The Cayman Islands worked further to fulfil international commitments undertaken in response to the recommendations of the Financial Action Task Force of the Group of Seven industrialized countries and OECD. Those initiatives aimed to counter perceived unfair international tax practices and to strengthen financial centres against criminal abuse.[8]

46. In 2001, the Cayman Islands became the first jurisdiction to conclude a Tax Information Exchange Treaty with the United States. Signed by Great Britain on behalf of the Cayman Islands, the non-retroactive agreement comes into effect in 2004. The treaty limits information exchange to federal taxes involving "significant or substantial amounts". Provision is made for the exchange of information, upon request, on a case-by-case basis, on condition that there is systematic evidence of tax evasion and of a magnitude that meets the standards of the treaty.[9]

47. Nevertheless, OECD continued to exercise pressure on the jurisdictions from its original list. In April 2002 it unveiled a model agreement for effective information exchange, which would target taxes on income or profit, capital, net wealth and estates, inheritances and gifts. At the same time, the targeted jurisdictions entered jointly into negotiations with OECD in order to protect their sovereignty and the privacy of their clients. From 26 October to 1 November 2002, the Government of the Cayman Islands hosted a meeting of OECD members with representatives of the targeted jurisdictions.[10]

48. Another subject related to so-called tax havens, namely the issue of cross-border taxation of savings accounts, including in offshore financial centres, has been discussed within the framework of the European Union since 1998. Following the request of the Government of the United Kingdom, in October 2002, that the Caribbean Overseas Territories provide details of all savings account holders registered in the Territories by 15 November, the Ministers of the Territories, including the Cayman Islands, held an emergency meeting in the Cayman Islands.

Although the Territories reaffirmed their willingness to cooperate, they stressed the need for a fair, transparent and non-discriminatory approach to the problem.[11]

49. In the aftermath of the 11 September terrorist attacks, the Government of the Cayman Islands expressed its willingness to assist the investigation of the terrorists' financial resources and to freeze terrorist-related accounts. In February 2002, the Government announced its readiness to cooperate with the United States Government in the investigation of the bankruptcy of the Enron Corporation. According to reports, out of more than 800 offshore subsidiaries used by Enron, as many as 692 were in the Cayman Islands.[12] In July 2002 the state of California created a blacklist of 23 firms that claim headquarters in such places as Bermuda and the Cayman Islands while remaining based in the United States.[13]

50. The campaign against tax evasion in the United States continued to have bearing on the Cayman Islands during the reporting period. According to a press report[14] in July 2002, Harken Energy Corporation set up a subsidiary in the Cayman Islands, while the current United States President was on its board of directors. The President said he had opposed the move; at the same time, the White House communications director said the President was unaware of it.[15] As part of its official response to a wave of corporate scandals, the White House has railed against the corporate practice of setting up offshore subsidiaries in tax havens like the Cayman Islands and Bermuda to reduce United States tax bills.[16] In August 2002 the United States Senate voted to bar from federal defence contracting United States companies that set up shell operations overseas. In November 2002 the United States Department of the Treasury released proposals to cut the incentives in the United States Tax Code that encourage businesses to move their headquarters overseas.

F. Transport and communications

51. The Territory's development as an international business centre is dependent on modern and reliable telecommunications and utility services. Currently, the multinational company, Cable and Wireless, holds an exclusive licence for the provision of telecommunication through its local Cable and Wireless (Cayman Islands). The Government is in the final stages of negotiations with Cable and Wireless over liberalization of the telecommunications sector. When completed, liberalization is expected to have a significant positive impact on all business sectors. Reductions in telecommunication costs are expected in all major areas, including Internet businesses, to improve their international competitiveness. Liberalization would also allow businesses to access cutting-edge technology, opening up new business opportunities in a variety of telecommunication-related areas and in e-commerce.

52. In the Strategic Policy Statement for the financial year 2003-2004 the Government has declared its plan to increase the use of e-business by 5 per cent per year and decrease telecommunication costs by 20 per cent with the aim of attracting and developing blue-chip e-businesses.

53. The Government is striving to create new jobs in the e-business sector by attracting 5 per cent of the offshore e-business market to domicile and grow in the Cayman Islands. Another planned measure is to create an e-business infrastructure that encourages entrepreneurship of Caymanians in the area of e-business through

the development of e-education initiatives and the support of the investment bureau. The Government also set the goal to create a local e-business services sector that gives traditional Cayman-based businesses a competitive advantage.[17]

54. International air services are provided between Grand Cayman and the United States, Canada, Europe, Jamaica, Honduras and Cuba. Major United States and British airlines operate regularly to and from the Cayman Islands. Domestic airline services and charters operate between the sister islands of the Cayman Islands.

55. In November 2002, as part of an overall cutback in flights, US Airways cut 25 daily departures to the Cayman Islands from Philadelphia and added 15 flights on other routes. One European flight to London, Gatwick Airport, was cut, leaving one flight there daily. Cayman Airways launched a new Grand Cayman-Montego Bay route in October and introduced two weekly flights to Havana in December 2002. Cayman Airways also negotiated a contract with Cincinnati's Sunshine Tours to provide weekly charter service between Cincinnati, Ohio, and Grand Cayman, which began operating in December 2002. Continental Airlines will begin service, four flights a week between Houston, Texas, and Grand Cayman, in May 2003.

56. The port of George Town is the main gateway for the almost 1 million cruise ship tourists who visit the islands annually. The Cayman Islands are served by scheduled passenger liners and a number of locally owned or registered vessels provide cargo services between Miami and Tampa, Florida, and Jamaica. Following the election in November 2000, the Tourism, Environment and Transportation Minister asked the Port Authority to review the George Town port development project.

57. According to the Governor, the Shipping Registry was scheduled to become a statutory authority. During 2002, it was proposed to submit some 40 new regulations under the Merchant Shipping Law and Merchant Shipping Marine Pollution Law to give local effect to the range of developments in international shipping conventions that apply in the Cayman Islands.

V. Social conditions

A. General

58. As reported in the previous working paper (A/AC.109/2002/7, paras. 46-48), the aim and effect of legislation and action by the Government in the social sphere is to create a society in which individual effort is rewarded, while a cushion is provided, often with voluntary help, for the less fortunate.

59. According to the information provided by the administering Power, in 2003-2004 the Government of the Territory will continue to strengthen the social support of the inhabitants. The legislative measures related to those areas include revisions to the Children's Law, Maintenance Law and Adoption Law. Key social services funded by the 2003/4 budget include the Cadet Corp training programme, the Youth Rehabilitation programme, pro-social activities and role modelling for youth and services to families, support for battered women and children, and care of indigent, elderly and disabled persons.

60. In July 2002 the Caribbean States members of the Organization of American States agreed to pool the training of social workers, especially those dealing with drug abuse. The regional strategy adopted by the delegates would support drug abuse and mental health programmes by providing trained social workers to Caribbean nations, including the Cayman Islands.[18]

B. Human rights

61. As reported in the previous working paper (A/AC.109/2002/7, para. 49), the Territory is subject to several major human rights conventions to which the administering Power has acceded.

62. The question of including a bill of rights incorporating all basic human rights in the Constitution of the Cayman Islands was discussed in the framework of the review of the Territory's Constitution. Caymanian laws already guarantee many human rights. At the same time, the Cayman Islands remains the only one of the United Kingdom's overseas territories without a bill of rights, although it is required to have such a bill under various conventions and agreements to which the United Kingdom is a party.[19]

63. According to the administering Power, during the meeting of the Overseas Territories Consultative Council in September 2002, the representative of the Cayman Islands said that "the United Kingdom has gone too far in imposing its international obligations on the Overseas Territories". In his opinion, the British Government "should respect local Caribbean culture and values. Cayman, however, would agree to the inclusion of a human rights chapter in its Constitution."

C. Housing and construction

64. After a continuous decline, the construction industry showed marked improvements in 2002, with the recovery being led by a number of large, prestigious projects in the hotel, apartment and commercial segments of the market. Total planning approvals increased by 4[illegible] per cent, from $120.1 million in the first nine months of 2001 to $173.8 millio[illegible] over the same period in 2002. The boom in the construction industry has boosted employment opportunities for both skilled and unskilled workers. The April 2002 Labour Force Survey showed a 27.6 per cent increase in construction employment compared to September 2001.

65. The performance of the real estate industry in 2002 was significantly better than in 2001. First and second quarter results showed a slight recovery, while the latest figures at the end of September reflected a marked improvement. Overall, the number of transfers fell from 1,591 in September 2001 to 1,523 in September 2002. But the value of real estate transfers increased by 21 percent, from $144.6 million to $175 million.

D. Labour

66. According to information provided by the administering Power, the employed labour force in 2000 was 25,459, with Caymanians comprising about 42 per cent. At year-end 1999 there were some 14,000 work permit holders. The workforce includes

nationals of 78 countries, with the greatest portion coming from Jamaica, the United States, Canada and the United Kingdom.

67. According to the Labour Force Survey, unemployment dropped from 7.5 per cent in October 2001 to 5.7 per cent in October 2002.

E. Education

68. Education is compulsory for all resident children between 4 years, 9 months and 16 years of age. The Government is directly responsible for education within that age group. Two public institutions and one private school provide tertiary education. The Community College of the Cayman Islands is Government-owned but independently administered. The Cayman Islands Law School is also Government-owned, while the College of the Cayman Islands is private.

69. The Government currently operates six primary schools, one middle school, two high schools and one alternative education centre on Grand Cayman, as well as three primary schools and one high school, which incorporates the middle-school level, on Cayman Brac. Tuition is free for Caymanians at those schools, but an annual book rental fee of C$ 100-150 per student is charged. In addition, 10 private schools provide primary and/or secondary education. All private schools are monitored by the Education Department and receive grants from the Government.

70. The improvement of the standard of education is one of the Government's key policy initiatives in 2003-2004. Key policy actions that are provided for in the 2003 budget include scholarships and bursaries to support local and international tertiary study, site preparation work for a new primary school at Spotts and planning and design work for a new secondary school in Grand Cayman. According to the Strategic Policy Statement for the financial year 2003-2004, the Government plans to implement measures to insure that 95 per cent of school leavers meet expected educational standards, that 90 per cent of all adults have basic language and numerical skills and that the number of adults undertaking vocational training increases.

F. Public health

71. The Health Services Department is responsible for the provision of all government health care, including public health services. In addition to general medical care, a wide range of specialist services is available locally. The Government has a contractual arrangement with the Baptist Hospital in Miami for tertiary care services. According to the administering Power, contraceptive services are provided free of charge, in addition to free antenatal service, which is already being provided for all residents irrespective of nationality. The Health Practitioners Board has responsibility for the registration of private practitioners. In July 2002, the Health Services Department became a statutory authority. There is a 124-bed hospital in George Town. The facility includes a state-of-the-art, fully staffed accident and emergency room. There is also an 18-bed hospital on Cayman Brac and several district health centres and clinics. In 2000, there were 84 registered doctors and 14 dentists in the Cayman Islands.

72. As a result of the Government's health sector reform a number of new regulatory measures are being taken, including the licensing and inspecting of all health facilities, the registration and regulation of health practitioners, the appointment of a Chief Medical Officer of Health to oversee that regulatory activity and the appointment of a Third Party Administrator to negotiate with overseas health-care providers, process claims and collect health-care statistics. The 2003/4 budget includes a range of legislative measures aimed at improving the health status of residents. Revisions to the Tobacco Products and Intoxicating Liquor Advertising Law are planned to tighten the requirements. Provisions have been made for a new pesticides law to establish a regulatory scheme to control the import and use of pesticides. Revisions to the Mental Health Law are planned to update it according to current international practice. The measures also include new regulations to improve arrangements relating to environmental health services, food hygiene and safety and drinking water quality.

73. Health-related services during the first half of 2003 funded by the budget include the provision of primary and secondary health care, global tertiary emergency medical care, the medical service for Cayman Brac and Little Cayman, drug abuse and substance prevention programmes and environmental health issues, including food hygiene inspections, the collection and disposal of wastes and mosquito control services.

74. Major planned capital expenditures include equity injections of $2,178,000 for the Health Services Authority to finance the purchase of a new computer system and capital works at Faith Hospital and Little Cayman Health Clinic. In addition, the Government plans to provide ownership support to the Health Services Authority of $2.3 million by way of further equity investment.

G. Crime and public safety

75. The Royal Cayman Islands Police Force comprises 295 officers and 40 support staff. It has a shortfall of Caymanian recruits and has officers seconded by the United Kingdom. Officers recruited are from Jamaica, Belize, Barbados, Canada, Nicaragua, Trinidad, Honduras, the Bahamas, Nigeria and the United States.

76. The Strategic Policy Statement for the financial year 2003-2004 outlines the following specific goals to ensure the safety and security of the Cayman Islands: ensure an efficient and fair legal and judicial system; reduce the levels of petty and serious crime; reduce the rate of reoffending by convicted offenders; ensure secure and humane custody of offenders with custodial sentences; and maintain appropriate border security and protection.

77. The key capital development project in 2003-2004 related to safety and security involves initial work on the Wilderness Institute Facility, which will be an alternative to prison for some youth who would otherwise be sentenced to Northward Prison.

78. In his parting speech in May 2002 the former Governor emphasized the importance of the Cayman Islands drug court, which represents a shift from traditional punishment for drug abusers to a restorative approach. It is a voluntary programme where the drug abuser admits his/her guilt, thus increasing the chance of success in rehabilitation.[20]

VI. Environment and natural resources

79. The Cayman Islands have 25 endemic species of plants and reptiles. On Grand Cayman, a botanical park and bird sanctuary provide safe environments for endangered species of birds and lizards. Little Cayman is host to a wide variety of flora, fauna and birdlife. It also has its own bird sanctuary. Over 200 species of birds have been identified on the islands. Over the years, the Government of the Cayman Islands has employed a variety of conservation strategies, including the establishment of a system of marine parks and protected areas on land and the development of public education and integrated species conservation.

80. According to the Strategic Policy Statement for the financial year 2003-2004, specific goals related to the environment include the protection of mangroves and other wetlands, of coral reefs and other marine life and of the quality of the air, groundwater and other natural resources.

81. In the summer of 2002 a study showed that the number of blue iguanas, native to Grand Cayman, had fallen so drastically that they became the top lizard on the endangered species list. It is estimated that without captive breeding efforts, the blue iguana will be functionally extinct in five years. The International Iguana Foundation is campaigning for funds to save it, estimating that it would take $150,000 to guarantee the lizard's survival.[21]

82. In November 2002 Britain asked the 160-nation Convention on International Trade in Endangered Species of Wild Fauna and Flora, meeting in Chile, to allow a limited trade of endangered green turtles from the Cayman Islands. If approved, turtle shells could be sold to tourists as souvenirs. Conservationists argue that the risk of reopening even limited trade would enhance existing illicit commerce in turtles in the rest of the Caribbean.[22] In December 2002 the Turtle Farm opened a new breeding pond as phase II of the Farm's redevelopment. After the Cayman Turtle Farm was almost completely destroyed by Hurricane Michelle in November 2001, the Government and the Farm's Board of Directors decided to plan a new venture with the creation of a marine park. The breeding pond was identified as the most urgent of all.[23]

VII. Relations with international organizations

83. As reported in the previous working paper (A/AC.109/2002/7, paras. 75-76), the Cayman Islands, which had been an observer with the Caribbean Community (CARICOM), was approved for associate member status.

VIII. Future political status of the Territory: position of the administering Power

84. On 1 October 2002, the representative of the United Kingdom made a statement before the Special Political and Decolonization Committee (Fourth Committee) (see A/C.4/57/SR.3), in which she said that her Government, as an administering Power, was pleased to report that further progress had been made towards modernization and development of the relationship between the United Kingdom and its Overseas Territories. The fourth annual meeting of the Overseas

Territories Consultative Council had been held in London in September 2002, providing a forum for structured political dialogue between democratically elected Chief Ministers and Ministers of her Government with regard to the relationship, based on partnership, between the United Kingdom and its Territories. It also enabled those present to consult on matters such as the process of constitutional review, human rights and environmental issues arising from the United Kingdom's international commitments.

85. The partnership between the United Kingdom and its Overseas Territories continued to evolve: on 26 February 2002, the British Overseas Territories Act had become law, with effect from 21 May 2002, granting citizens of the Territories British citizenship, with right of abode in the United Kingdom and freedom of movement in Europe; it formally changed the nomenclature from "dependent" to "overseas" Territories in order to reflect more accurately the nature of the relationship. Furthermore, constitutional review was under way in almost all the Territories, for the first time with the participation of locally appointed review commissions, with a view to providing each Territory with a modern constitution suitable for its long-term development which reflected its specific circumstances. Some reviews were almost complete, others were well under way and Ascension Island would have elected an island council by the end of 2002.

86. The representative of the United Kingdom added that work was under way to implement the Guiding Principles of the Environment Charter for the Overseas Territories, adopted in September 2001. Pilot projects had been approved for two Territories and would be carefully monitored for suitability elsewhere. Multilateral environmental agreements would be extended to the Territories and national legislation would be strengthened. Projects had been implemented to address key areas such as habitat restoration, surveys of living resources, tackling of invasive species and capacity-building for civil society institutions. Her Government would also assist the Territories to access regional and bilateral European Commission trade, economic and development assistance within the framework of the November 2001 Overseas Association Decision.

87. The wishes of the peoples of the Territories, exercised in accordance with the Charter of the United Nations and other international treaties, were of paramount importance for the United Kingdom. The relationship between her Government and its Territories was based on fundamental principles such as self-determination, mutual obligations, freedom for the Territories to run their affairs to the greatest degree possible and the firm commitment from her Government to help the Territories economically and during emergencies.

88. The representative of the United Kingdom said that there was a basic commonality of approach between her Government and the Special Committee and she therefore regretted that relevant resolutions, in particular those of the Special Committee on decolonization, did not always properly reflect that commonality. The annual omnibus resolution recalled that there was no alternative to the principle of self-determination and it was unfortunate that the Special Committee continued to apply that principle selectively. Her Government fully intended to continue to work with the Special Committee, as had been demonstrated by the presence of a representative of her Government at the regional seminar of the Special Committee held in Fiji in 2002.

IX. Consideration by the General Assembly

89. On 11 December 2002, the General Assembly adopted, without a vote, resolution 57/138 B, section V of which deals with the Cayman Islands.

Notes

[1] The present working paper is based on information provided by the administering Power under Article 73 *e* of the Charter of the United Nations, as well as from published sources.

[2] Cayman Islands, 2000, Annual Report and Official Handbook (provided by the administering Power).

[3] *Caribbean Insight*, 23 November 2001.

[4] Government of the Cayman Islands, Press release, 29 October 2002.

[5] The Cayman Islands: A Centre of Excellence for the Twenty-first Century, 8 November 2002.

[6] Ibid.

[7] Calendar of Events, 500 years of history, culture and beauty, www.cayman500.ky.

[8] 2001 Annual Report and Official Handbook Cayman Islands.

[9] Ibid.

[10] http://www.oecd.org/EN/document/0,,EN-document-103-3-no-12-36128-0,00.html.

[11] *Wall Street Journal*, 22 November 2002.

[12] Press release, Cayman Islands Financial Services, 8 February 2002; NewsEDGE/LAN, 3 October 2001 and 17 January 2002.

[13] Agence France-Presse, 25 July 2002.

[14] *The New York Daily News*, 31 July 2002.

[15] Ibid., 1 July 2002.

[16] Reuters, 31 July 2002.

[17] The Cayman Islands: A Centre of Excellence for the Twenty-first Century, 8 November 2002.

[18] Agence France-Presse, 7 July 2002.

[19] *The Caymanian Compass*, 28 June 2001 and 29 June 2001; *The Royal Gazette*, 29 June 2001.

[20] 2001 Annual Report and Official Handbook Cayman Islands.

[21] *Chicago Tribune*, 9 August 2002.

[22] Reuters, 8 November 2002.

[23] Cayman Islands Turtle Farm — Turtles in the news, www.turtle.ky, 19 December 2002.

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Tokelau

Working paper prepared by the Secretariat

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I. General

1. Tokelau,[1] a Non-Self-Governing Territory administered by New Zealand, consists of three small atolls in the South Pacific (Fakaofo, Nukunonu and Atafu), with a total area of approximately 12.2 square kilometres. Fakaofo is the southernmost atoll; Nukunonu is nearly 50 kilometres away and Atafu nearly 100 kilometres from Nukunonu. Each atoll comprises strips of land no more than 200 metres wide and never more than 5 metres above sea level. Samoa, 480 kilometres to the south, is the nearest sizeable neighbour.

2. Tokelauans are Polynesians with linguistic, family and cultural links with Samoa. The last five-yearly census, conducted on 11 October 2001, recorded a population of 1,518, a slight increase over the 1996 figure of 1,507 people. This figure includes all those present on census night plus those who usually reside in Tokelau but were overseas temporarily in government employment or for educational and medical reasons — a frequent occurrence in this Territory. By atoll, the population was recorded as follows: Atafu, 608; Fakaofo, 501; Nukunonu, 409. The constraints of atoll life and limited opportunities have led some 6,000 Tokelauans to settle abroad, mainly in New Zealand and Samoa.

3. There has never been a New Zealand representative resident in the Territory. The New Zealand official who deals with Tokelau is the Administrator, appointed by the Minister for Foreign Affairs and Trade. In February 2002, Lindsay Watt, the Administrator, was reappointed for a further year at the request of the Tokelau authorities. In March 2003, Mr. Watt retired and a new Administrator, Neil Walter, was appointed. In the past, there was also a Public Services Commissioner for Tokelau, a delegate of the State Services Commissioner. The last Public Services Commissioner, Aleki Silao, a New Zealand-based Tokelauan, remained in his post until 30 June 2001, when responsibility for public services was transferred to the Territory (see para. 23).

4. In August 2002, a Mission of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples visited Tokelau and New Zealand at the invitation of the Government of New Zealand and the people of Tokelau. This was the first mission of this kind since 1994. The report of the Mission (A/AC.109/2002/31), which includes information on the Territory's current situation, an account of meetings, and conclusions and recommendations, was issued in September 2002.

II. Constitutional and political developments

5. As reported in previous working papers on the question of Tokelau (see A/AC.109/2001/5 and A/AC.109/2002/6), the current process of constitutional development stems from the 1998 decision by the General Fono (the national representative body) to endorse a comprehensive report entitled "Modern House of Tokelau", which addressed the core issue for Tokelau in creating a constitutional framework: how to construct a self-governing nation based on the atoll or village structure. There is, as yet, no written constitution. Initial studies were done in the mid-1990s and a first glimpse of a constitution was published in 1996-1997 in Tokelauan and English. The constitution will be developed further as new governance structures for village and nation are decided on. It is expected to draw

upon unwritten customary practice, the written rules of the General Fono and elements of New Zealand law. According to the administering Power, constitutional matters were discussed in Tokelau during the November 2002 General Fono session. Constitutional development is also being discussed in the context of the relationship framework meetings between New Zealand and Tokelau that were initiated in Wellington in December 2002 (see paras. 13 to 16).

6. Regarding the legislative structure, in accordance with recommendations made in the 1998 Modern House report, a new electoral system was instituted for the General Fono. In the past, the 27-seat General Fono was made up of members chosen by each village's Taupulega (Council of Elders or Village Council) to serve three-year terms; only the Faipule (the representative of each village) and the Pulenuku (the mayor of each village) were elected. In January 1999, elections for a reformed General Fono, made up of six members from each village (18 altogether), were held on the basis of universal suffrage. Each village first elected four officials: Faipule, Pulenuku, Deputy Faipule and Deputy Pulenuku. Next, it elected two delegates nominated by designated groups in the village: women and the aumaga (the workforce of able-bodied men). The newly elected General Fono reflected a generational change in membership. Delegates were younger and had received more formal education than before. In addition, whereas in the past membership in the General Fono was rotational in nature, several of the new delegates had served previously.

7. In November 2001, it was decided that representation within the Fono would be changed based on the results of the 2001 census. This meant that for the first time in General Fono history, the three atolls would not be represented by the same number of delegates, but would have legislative seats proportional to the size of their population. Thus, replacing the former structure of 18 members (6 per atoll), the new General Fono has 21 members, giving Atafu 8 delegates, Fakaofo, 7 and Nukunonu 6. The triennial elections for Faipule and other General Fono delegates were held from 16 to 22 January 2002. Each of the three incumbent Faipule was re-elected. Among the elected delegates, 11 of them (more than half the composition of the General Fono) have not held office before. The position of Ulu-o-Tokelau (titular head of the Territory) rotates annually among the three Faipule. In February 2002, Nukunonu's Faipule, Pio Tuia, was installed as Ulu for 2002.

8. Regarding the development of further self-government for Tokelau, the Modern House of Tokelau report mentioned in paragraph 4 was transformed into a project and officially established by the General Fono in June 2000. The general principle that was endorsed by the Tokelauans was that the traditional Council of Elders on each atoll should serve as the foundation for any future governance structure. It also recognized, however, that the three atolls wished to be one nation and that certain functions, such as transport, would be best performed by a national administration. In November 2000, it was agreed that the Modern House project would cover the following four basic areas:

(a) Good governance, namely governance framework, constitutional development, management and operational structures and employer responsibility;

(b) Capacity development, namely the review of national and village administrations, the development of a management support training workshop, the identification of national, village and individual training needs and the development of appropriate training programmes;

(c) "Friends of Tokelau", namely the establishment of an organization to link outside individuals and organizations into Tokelau's development;

(d) National and village sustainable development plans.

9. According to the administering Power, Tokelau and New Zealand see self-determination as a dynamic and evolving process — a largely self-generated approach to decolonization where the administering Power and third parties recognize what the people of Tokelau construct. Thus, with the support of the New Zealand Agency for International Development and the United Nations Development Programme (UNDP), the Modern House initiative has continued to move gradually from the planning to the implementation stage. In 2001, the Territory focused on efforts to make traditional village leadership the basis for future government and on the establishment of the Tokelau Employment Commission (see para. 23).

10. In March 2002, the Council of Faipule and the Administrator held a strategy session in Samoa to map out the direction for Tokelau in the next three years. The Council adopted a vision statement entitled "The Quality of Life for People living in Tokelau" and identified three areas of national priority which have the potential for economic development (see para. 21). The Council also worked on defining the obligations and commitments of the future partnership with New Zealand and discussed constitutional development. In addition, a legislative programme was developed focusing on such key areas as criminal law, business law and shipping and safety standards for dangerous goods, such as gas, fuel and pesticides.[2]

11. In May 2002, a report on the implementation of the Modern House project was issued[3] to describe the progress made during 2000-2001. The report listed the major accomplishments in the four main areas of the project: under good governance, the report stressed the strengthening of village-based governance structures, the establishment of the Tokelau Employment Commission, the review of information technology needs and the establishment of three FM radio stations; under capacity development, it listed capacity-building plans for each village and increased skills in management, policy analysis and financial planning; under sustainable development, the report stressed the creation of the sustainable economic development plan and a commercial fisheries development plan, as well as increased small-business development skills; finally, under Friends of Tokelau, the report pointed to a new database, a published newsletter and a web site. While the report stated that much had been achieved in two years, it also indicated important lessons learned, namely that different approaches and paces were needed on each atoll, and most significantly, that, although outreach had been undertaken through meetings, publications and radio broadcasts, there was still a need for constant communication with the elders and the general community of the atolls to increase understanding of the project and its progress.

12. The Administrator and the Ulu of Tokelau described progress in self-government when they attended the Special Committee's Pacific Regional Seminar held in Fiji in May 2002 and they provided additional information when they addressed the Special Committee in New York in June 2002 (see sect. VI below). The June meeting also served to review progress on the Special Committee's programme of work for Tokelau, established in 2001 to define key activities and to assist each partner in assessing Tokelau's moves towards self-determination.

13. The status of Tokelau's institutions of Government and its constitutional and legal development were further discussed during the Special Committee's Mission to Tokelau and New Zealand in August 2002. In its report (A/AC.109/2002/31), the Mission summarized these discussions and made recommendations to further advance the self-determination process. During the Mission's stay in Wellington, the representatives of New Zealand noted that consultations with Tokelau on a relationship framework were expected to begin later in 2002 in order to make explicit the basis and parameters of the relationship between them. It was anticipated that these consultations would:

(a) Reconfirm Tokelau and New Zealand's ongoing commitment and responsibilities to one another;

(b) Identify the values and principles that are the foundation for New Zealand and Tokelau's relationship;

(c) Confirm the terms under which New Zealand will provide ongoing economic and administrative assistance to Tokelau;

(d) Identify the principles underpinning such issues as Tokelau's security and defence, Tokelau's participation in regional and international affairs, the role of the Tokelauan community in New Zealand, and the decolonization process;

(e) Institute more structured communication and liaison between Tokelau and New Zealand so that issues concerning both parties can be addressed more strategically and systematically in the future.

14. According to the administering Power, the draft "Principles of Partnership" document (see A/AC.109/2002/31, annex II) was further discussed with Tokelauan representatives during a meeting between the Administrator and the Council of Faipule held in Apia from 1 to 3 October and later during the Administrator's visit to the Territory from 20-29 November, when he received feedback on the document from the General Fono.

15. The first formal meetings on the relationship framework were held in Wellington from 9 to 13 December 2002, during which time the Council of Faipule met the Prime Minister of New Zealand and the Associate Minister for Foreign Affairs and Trade, and had a series of round-table meetings with Ministry officials. According to the administering Power, the representatives of Tokelau expressed appreciation to New Zealand for developing the idea of partnership. While the draft had been positive in generating much discussion on the atolls, it was evident, however, that there were still many aspects to be clarified. Tokelau drew attention to the fact that the document did not deal with the level of ongoing economic support to the Territory and other core practical questions that Tokelau had raised and that had an impact on everyday life and Tokelau's economic future. Tokelau also questioned the fact that the draft included a section on shared values and wondered what the consequences of that might be.

16. The New Zealand delegation maintained that the draft responded to Tokelau's expressed wish for greater certainty about the nature of the relationship; it reconfirmed mutual commitments and included broad assurances about New Zealand's continuing support. It articulated the principles underpinning the relationship and made expectations, responsibilities and accountabilities explicit. It provided an agreed structure within which the partners could pursue initiatives and

provided a context for the New Zealand Government to provide administrative support to Tokelau. According to New Zealand, the document was not intended to set the level of New Zealand official development assistance support but rather to agree on the principles to underline such support. Although not a legally binding document, it provided a strong indication of intention and it had powerful moral force. Furthermore, New Zealand believed that, as the document was a draft, further discussion of it was welcome. In addition, New Zealand had no intention of prejudging the direction that Tokelau would choose to develop in terms of self-determination. At the conclusion of these meetings on the relationship framework, it was agreed that New Zealand would respond in writing to Tokelau's questions and comments and that discussions would continue in 2003.

III. Economic conditions

A. Economic developments

17. Traditional and communal values and practices play a key role in contributing to a state of general well-being and equity in the Territory, as evidenced by the redistribution principles of traditional wealth (the inati system) and the importance attached to upholding the concept of the family and/or the extended family. The tradition of inati requires the deposition at a central location of food and produce, which are then apportioned by the distributors on the basis of "share groups". The principle provides for a secure distribution system that caters to the needs of every member of the community, including the elderly, widows, single parents and children. Major constraints on economic growth include natural disadvantages, such as the small size of Tokelau, isolation, the geographical spread of the atolls, limited and poor natural resources and proneness to natural disasters (such as cyclones). Tokelau's economic stability has so far been made possible by the high levels of assistance provided by the administering Power.

18. Tokelau's national budget for 2002-2003 was set by the General Fono at the annual budget session at NZ$ 6.8 million.[4] New Zealand continues to be the primary aid source through funding from the New Zealand Agency for International Development. In August 2002, representatives of Tokelau and New Zealand met in Nukunonu for discussions on the allocation for 2002-2003.[5] The meetings with the national leadership were complemented by separate meetings with the Councils of Elders on each atoll. It was agreed that the Agency's allocation of NZ$ 8.1 million (up from the 2001-2002 figure of NZ$ 7.5 million) was distributed as follows: NZ$ 4.75 million for budget support; NZ$ 2 million for project support to key activities, such as education, health and infrastructure; NZ$ 650,000 for the Modern House of Tokelau project and NZ$ 700,000 million for the Trust Fund. According to the administering Power, key issues still pending for NZAID in Tokelau are the completion of a review of support for self-government by March 2003; the formal establishment of the Tokelau Trust Fund; the review of the Modern House project before June 2003, beyond which time funding is not currently allocated; feedback on progress in the education and health sectors; the discussion of a five-year infrastructure programme; and the completion of the power supply and maintenance projects.

19. At their August 2002 meeting, Tokelau and the New Zealand Agency for International Development also reaffirmed their commitment to establishing a Trust Fund that is expected, in time, to assure a long-term independent income for Tokelau. Although the Fund has not yet formally been established, in 2000-2002 New Zealand and Tokelau set aside NZ$ 3.4 million and NZ$ 680,000 respectively for the Fund, the Tokelauan contribution coming from revenue from fishing licences in its exclusive economic zone. As mentioned above, in August 2002, the Agency allocated a further NZ$ 700,000 contribution to the Fund out of its 2002-2003 budget year. While the Tokelauan representatives requested that this latter allocation be used for priority infrastructure needs, the Agency noted that in order to achieve the objective of the Trust Fund, namely, that of assuring long-term independent income, there should be a commitment to set aside some funds on an annual basis rather than spend them on immediate needs. Tokelau acknowledged this point and reiterated its commitment to establish the Fund as soon as possible. In December 2002, the members of the Council of Faipule stated during their visit to Wellington that they planned to have the General Fono pass the necessary legislation for the Fund shortly.

20. While the bulk of development assistance to Tokelau has been bilateral support from New Zealand, the United Nations Development Programme (UNDP) also contributes from its office in Apia, Samoa, to the strengthening of the Territory's social and economic capabilities as it moves towards greater self-government and self-reliance. Some of the milestones in UNDP's relationship with Tokelau have been the first telephone connection in the Territory in 1997, building seawalls after the cyclone, and its early and ongoing support to the Modern House Project. Within the Tokelau/UNDP country cooperation framework for 1998-2002,[6] UNDP provided funding of US$ 214,000 in direct support to the Modern House project which focused on macro-level financial management and strategic economic planning. Other projects included the US$ 148,000 job creation and sustainable livelihoods project, implemented by the International Labour Organization, and the US$ 150,000 household income and expenditure survey, which provided data on the needs of vulnerable sectors (youth, women, children, the elderly and the disabled). In August 2002, when the UNDP Resident Representative accompanied the United Nations Visiting Mission to Tokelau, she introduced the new Tokelau/UNDP Country Programme for 2003-2007, which is expected to invest over US$ 0.5 million per year over the next five years. According to the Representative, it will focus again on support for the Modern House project, with grant assistance in two areas: governance and sustainable development. Under governance, support will continue for capacity-building and training. Under sustainable development, UNDP will support development projects, such as: micro-enterprise projects for women and skills training for youth; a comprehensive assessment of fishing resources to strengthen the fisheries industry; and environmental management projects, including reducing reliance on fossil fuels by building solar energy units, and improving fuel storage and protection against oil spills. While Tokelau does not qualify for funding under the Global Environmental Facility (GEF) owing to its non-self-governing status, UNDP is exploring ways in which Tokelau could benefit from regional GEF projects. The Representative also noted UNDP's willingness to assist the Territory should a study to review the options for its future self-determination be requested by Tokelau.

21. Tokelau also aims to complete a Sustainable Strategic Development Plan for 2002-2004 and beyond. This would be the governance project's economic dimension and would aim to expand economic and social opportunities, thereby increasing the village and national revenue base and, thus, Tokelau's self-reliance. At the strategic meeting, held in Samoa in March 2002, the Council of Faipule identified three areas of national priority which have potential for economic development, namely, commercial fisheries, successful businesses and critical infrastructure. The Council will review progress in these three areas at the end of each year.

22. Regarding commercial fisheries, under the 1987 Treaty on Fisheries between the Governments of certain Pacific Islands and the Government of the United States (also known as the United States Tuna Treaty), Tokelau earns fees paid by United States vessels fishing in its exclusive economic zone. Thus, according to the administering Power, Tokelau earned US$ 506,308 in fishing fees during 2001-2002. In addition, Tokelau is seeking to conduct an audit of its maritime resources and to develop its own commercial fishing capacities. As part of this process, the Territory asked for assistance from the Pacific Islands Forum Fisheries Agency and in 2002 the Territory acceded to associate membership in the Agency.

B. Public services

23. Public services in the Territory used to be administered by the Tokelau Public Service, under the management of the New Zealand State Services Commissioner. While this was seen as the administering Power's best endeavour in the 1970s to provide services in education, health, energy, transport and communications, by the 1990s both the New Zealand and Tokelauan authorities agreed that the Tokelau Public Service produced a management structure that emphasized national arrangements over village ones, weakening, in the process, the institution of the village. In July 1998, at the request of the territorial Government, a New Zealand-based Tokelauan was appointed Tokelau Public Service Commissioner to ensure the effective running of the existing Service and to assist Tokelau in developing and implementing a new independent public service that would fit within the Modern House project. The Government of New Zealand passed legislation to enable responsibility for the Service to be passed to Tokelau. In February 2001, the General Fono established a three-member Tokelau Employment Commission (one member designated by each village) as the successor body, effective 1 July 2001. The new Commission is the employer of former employees of the Tokelau Public Service and those deemed to be national-level employees after 30 June 2001.

C. Transport and communications

24. Tokelau has no airstrips and its sole transportation option is that provided by a single vessel, the *MV Tokelau*, a mail ship with limited cargo and passenger capacity that provides service every two weeks between Tokelau and Apia, as well as inter-atoll services. The United Nations Mission that visited the Territory in August 2002 concluded that the lack of transportation options was one of the greatest drawbacks to economic development in the Territory and recommended that serious consideration be given to the establishment of a dedicated inter-atoll ferry and an airstrip on one of the atolls.

25. The first use of the General Fono's legislative power was the establishment of the Telecommunications Tokelau Corporation under the Tokelau Telecommunications Rules of 1996. The NZ$ 4 million international telecommunication service was inaugurated in April 1997 and is contributing to the Territory's progress towards self-determination by facilitating Tokelau's contact with the outside world. Previously, Tokelau had to rely on short wave links to Samoa. Of the total cost, New Zealand contributed NZ$ 1.5 million and Tokelau NZ$ 1.6 million. UNDP and the International Telecommunication Union provided the balance. In February 2002, FM radio stations were inaugurated on each of the three atolls with funding from the New Zealand Agency for International Development. Currently, they operate independently, but there are plans to link them at least once a week for a national programme. The new radio stations are seen as an excellent means of maintaining the Territory's cultural heritage as well as a way of facilitating communication on community matters. In addition, they provide a way to increase transparency in political, social and economic developments as they broadcast meetings of the Mayor and Council of Elders on each atoll. Tokelau also has a web site, www.dot.tk, which became operational on 15 January 2002 and offers both free and paid dot.tk domain names. The web site is the result of a commercial licensing agreement between the Telecommunications Tokelau Corporation and a private company which set up Taloha Inc. It is seen as having the potential to provide revenue to the Territory without any capital outlay by the Telecommunications Tokelau Corporation. Meanwhile, efforts continue to enhance e-mail facilities and teleconferencing connections using Modern House funds.[7]

D. Power supply

26. The 2001-2002 New Zealand Agency for International Development forward aid programme allocated NZ$ 400,000 to continue the installation of diesel generation systems on all three atolls. In August 2002, it was reported that 24-hour diesel power was available on two of the three atolls and that installations on the third atoll would be completed before the end of the year. It was agreed that a further allocation of NZ$ 300,000 would be made and that the current tariffs for power consumption on each atoll would be retained and reviewed after one year, once operational and maintenance costs were known. Following discussions between the Agency and UNDP, there is also a project for a solar power (photovoltaic) component to the new system, which UNDP and the United Nations Educational, Scientific and Cultural Organization have agreed to manage with partial funding from France.

IV. Social conditions

A. Education

27. Under Tokelau's compulsory education system, primary and secondary education are available to everyone. As a member of the University of the South Pacific, Tokelau also has access to the USPNet educational telecommunications system through a satellite established in Atafu. However, the low standard of the education system remains a problem, with many families migrating to New Zealand or Samoa in order for their children to receive higher-quality education. Under the

New Zealand Agency for International Development programme for 2002-2003 NZ$ 178,000 was allocated for scholarships and NZ$ 230,000 for new education initiatives. Meanwhile, a 2002 Agency study on Tokelau's education system has recommended immediate technical support for Tokelau's Education Department and the development of a comprehensive strategy to shape the future direction of schooling in the Territory. Tokelau and New Zealand have agreed to act urgently on these recommendations.

B. Health

28. Average life expectancy is 69 years.[8] There are three basic hospitals, one on each atoll. However, the shortage of qualified medical practitioners and general health-care workers, as well as the maintenance of installations and equipment, remain a serious problem. In addition, the need to transfer the more serious cases to Samoa or New Zealand for treatment represents a large expense in the national budget. As part of New Zealand Agency for International Development project support, a New Zealand-based doctor provides support to the Tokelau Health Department and coordinates the provision of locum doctors, medical referrals to New Zealand, training and equipment purchases. The 2002-2003 health allocation from the Agency was NZ$ 390,000, but an August 2002 review of the health project confirmed the need for action by both parties to address numerous concerns over the provision of medical services on the atolls. The World Health Organization (WHO), of which Tokelau is an associate member, reports that changes in lifestyle and an increase in non-communicable diseases in Tokelau have resulted in the need for health education programmes focused mainly on the promotion of non-smoking, increasing physical activity and controlling the use of alcohol among young people.[9] Further data regarding WHO's Tokelau projects is to be found in the Report of the Mission to Tokelau (A/AC.109/2002/31, para. 32).

C. Status of women

29. Women are well integrated in Tokelauan society. They participate in the village decision-making process, through Fatupaepae (women's committees), the village Councils of Elders and their membership in the General Fono. The new electoral system for the General Fono has increased gender equity. Women elected to the General Fono no longer function as the representative of the women's committee, but are responsible for representing all the people of the village. A number of women who addressed the United Nations Visiting Mission in August 2002 mentioned that there had been considerable social progress in recent years, namely, governance projects to assist the elders in making decisions, FM radio to disseminate these decisions, and greater support for women's handicraft projects and youth training centres. Nonetheless, they also called for greater support for job creation in order to reduce Tokelau's future dependency on outside aid (see A/AC.109/2002/31, para 23). The 2002-2003 New Zealand Agency for International Development allocation for gender and development remained at NZ$ 30,000, part of which will be used to cover the cost of a programmed national women's meeting.

V. Consideration of the question by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

30. The Ulu-o-Tokelau and the New Zealand Administrator both attended the Special Committee's Pacific Regional Seminar held in Fiji from 14 to 16 May 2002 (see A/57/23 (Part I), annex). The Special Committee also considered the question of Tokelau at its 7th meeting, on 17 June 2002 (see A/AC.109/2002/SR.7). Statements were made at that meeting by the Administrator of Tokelau, the Ulu-o-Tokelau and the representatives of the Syrian Arab Republic, Côte d'Ivoire, Grenada, Fiji and Cuba. The representative of Papua New Guinea introduced draft resolution A/AC.109/2002/L.14. The Committee adopted the draft resolution without a vote (A/AC.109/2002/24).

31. At its 11th meeting, on 26 September 2002, the Special Committee resumed its consideration of the question of Tokelau, and, in particular, the findings of the United Nations Mission to Tokelau, which took place from 14 to 24 August 2002. The Chairman of the Mission introduced the draft report of the Mission, distributed as a conference room paper (A/AC.109/2002/CRP.2) and issued subsequently as A/AC.109/2002/31. Statements were made by the representatives of the Syrian Arab Republic, Antigua and Barbuda, Cuba, Côte d'Ivoire, Fiji, the United Republic of Tanzania, Bolivia and the Congo. The representative of New Zealand also made a statement. At the same meeting, the Committee approved the report of the Mission and authorized its Rapporteur to submit the report directly to the General Assembly, as well as to introduce before the Fourth Committee appropriate amendments to the draft resolution on the question of Tokelau contained in chapter XIII of its report to the Assembly (A/57/23, part III).

B. Special Political and Decolonization Committee (Fourth Committee)

32. At its 2nd meeting on 30 September 2002 the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly heard statements by the Rapporteur and the Chairman of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, in which they referred to the year's developments regarding Tokelau (A/C.4/57/SR.2). At the same meeting, the representatives of Cuba, Brazil (on behalf of MERCOSUR) and the Islamic Republic of Iran welcomed positive developments in Tokelau.

33. At its 3rd meeting (see A/C.4/57/SR.3), on 1 October 2002, the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly heard a statement by the Permanent Representative of New Zealand to the United Nations (see paras. 35 to 39 below). At the same meeting, the representatives of Bolivia, India, Venezuela and Papua New Guinea made statements in which, inter alia, they referred to the recent visiting mission to Tokelau and commended the New Zealand Government for its exemplary cooperation with the Special Committee. Similar views were expressed by the representatives of Cambodia, Tanzania and

Egypt at the 5th meeting (A/C.4/57/SR.5), and by the representatives of Ethiopia, Pakistan, China, Ghana and Haiti at the 6th meeting (A/C.4/57/SR.6). Also at the 6th meeting, the Chairman of the Fourth Committee stated that consultations were still continuing on the draft resolution on Tokelau, which would be considered at a later date. At its 11th meeting, on 15 October 2002, the Committee adopted a revised draft resolution, entitled "Question of Tokelau" (A/C.4/57/L.6), without a vote.

C. Action by the General Assembly

34. At the 73rd meeting of the fifty-seventh session of the General Assembly, on 11 December 2002, the Acting Chairman of the Special Committee reviewed the Special Committee's work during 2002 and introduced the report of the Special Committee contained in document A/57/23 (see A/57/PV.73). With regard to Tokelau, he stated that the Committee's ongoing working relationship with New Zealand exemplified what could be achieved when there was constructive dialogue with an administering Power. The report of the Mission that had visited Tokelau in August 2002 showed that nothing was as useful to the Committee's work as first-hand experience of the conditions in a Territory. Furthermore, the very presence of the Mission in Tokelau and New Zealand had provoked a stimulating debate on decolonization. Tokelau and New Zealand had a positive relationship and were advancing steadily towards greater self-government for the Territory, while striving for good governance and sustainable economic growth. Meetings held in Wellington would be crucial to clarify pending issues, such as the terms under which New Zealand would provide economic and administrative assistance to the Territory, security and defence issues, participation in regional and international affairs and the decolonization process. In that regard, the Mission report stated that it would be important for the Tokelauans to be better informed about the options for self-determination and their implications and consequences, and it recommended that Tokelau and New Zealand consider developing an education programme and that a case study on the implications of the options be conducted under United Nations auspices. On 11 December 2002, the Assembly adopted its resolution 57/137 on the question of Tokelau without a vote. It also adopted resolution 57/140 on the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, paragraph 7 of which refers to Tokelau.

VI. Future status of the Territory

A. Position of the administering Power

35. Speaking before the Special Political and Decolonization Committee (Fourth Committee) at its 3rd meeting, on 1 October 2002, the representative of New Zealand noted that the past year had been a busy one for Tokelau: the Territory had become a full member of the Pacific Islands Forum Fisheries Agency, an important development for which New Zealand had provided full support; in November 2001, the Tokelau Employment Commission had become operational; and good progress had been made in developing the programme of work for Tokelau in accordance with General Assembly resolution 55/147. In addition, the Special Committee's

2002 Regional Seminar held in Fiji had also provided a useful opportunity for broader discussion of issues relating to self-determination for Tokelau.

36. The Ulu-o-Tokelau and the Administrator of Tokelau had attended the Fiji Seminar, at which the Administrator had noted his Government's intention to develop a relationship framework with Tokelau, reconfirming the parties' commitment to one another, the principles underpinning the relationship and clarifying expectations through a collaborative process during which Tokelau would have access to independent advice. A first draft of the framework document, entitled "Joint statement of the principles of partnership between New Zealand and Tokelau", was being presented to the Faipule in Apia that week and would be the subject of New Zealand/Tokelau discussions in November 2002. During the past year his Government had continued to support the Modern House of Tokelau project, a partnership aimed at promoting good governance, capacity-building and sustainable development on the path towards self-determination.

37. The New Zealand Government had welcomed the visit of the Special Committee on decolonization to Tokelau and New Zealand in August 2002. The report of that Mission (A/AC.109/2002/CRP.2) described the challenges facing Tokelau, reflected the views of its people and clarified to the latter that self-determination involved a range of options that would not necessarily entail severing links with New Zealand. The Mission had recommended that a study be conducted of the three decolonization options and that Tokelau and New Zealand consider developing an education programme to inform the population about the self-determination process. New Zealand welcomed those recommendations. The representative recalled that in 1986 his Government had outlined the three decolonization options, which had been translated into Tokelauan in a paper explaining the basic principles underlying each option; a more detailed explanation would be required before an act of self-determination and it could be provided once the Modern House of Tokelau project was fully developed and the new relationship framework between Tokelau and New Zealand was in place. Those two measures would establish, respectively, internal decision-making structures within Tokelau and clearer liaison between New Zealand and Tokelau. The former would demonstrate the level of autonomy at which the Tokelauan administration would be able to operate effectively and the latter would provide for a more structured partnership for addressing constitutional arrangements and decolonization.

38. The representative of New Zealand added that his Government, maintaining its partnership-based approach, expected to work closely with Tokelau to elaborate the details of the three decolonization options, once the Modern House structure was firmly established and the relationship framework document was concluded. Although New Zealand and Tokelau were necessarily the primary partners in determining the future nature of their relationship, they recognized the value that independent advisors would bring to the decolonization process. While New Zealand welcomed the Mission's recommendation that a study be conducted and also welcomed UNDP's offer of assistance, his Government believed that the study would be most effective if it built upon the initial discussions between New Zealand and Tokelau about the nature of the decolonization options and was integrated into the existing bilateral process. This would ensure that its conclusions were based on ideas that were relevant and meaningful to both Tokelau and New Zealand and made a constructive contribution to the process.

39. The New Zealand Government was, however, of the opinion that it was too early in the decolonization process to implement the Mission's second recommendation on developing educational material on the decolonization options. It nevertheless remained committed to educating the people of Tokelau about their options, as was explicitly recognized in the draft relationship framework document. New Zealand wished to work with the Committee and with Tokelau in accordance with the Special Committee programme of work to determine the appropriate time and method for providing detailed educational material to Tokelau about the decolonization options.

B. Position of the people of Tokelau

40. At the 7th meeting of the Special Committee, on 17 June 2002, the Ulu-o-Tokelau, Mr. Pio Tuia, made a statement (see A/AC.109/2002/SR.7). He said that he wished to focus on efforts under way in Tokelau aimed at the achievement of self-government; the work to develop a form of self-government and a plan of action for the next three years; and the support required to sustain those developments. He had provided the Special Committee with a report about recent nation-building activities under the Modern House of Tokelau project, as a way of expressing Tokelau's gratitude to the United Nations, and in particular to UNDP, for the assistance provided.

41. Within the context of preparations for the transition to self-government, Tokelau was expanding its system of governance. The Territory had the ingredients for a national Government, but the solid traditional foundation also needed to be strengthened. Historically, the three atolls, which were effectively three villages, had always existed autonomously. However, they had a common history, language and culture and their inhabitants had strong family ties. Tokelau was now making decisions about the powers and responsibilities that should be accorded to village institutions. At the same time, it recognized the need for a national institution, like the General Fono, which would deal with matters affecting the entire Territory, including external relations, and wield the collective powers of the three villages.

42. The Ulu mentioned that, in the event of uncertainties, the General Fono, as a national body, would turn to the Councils of Elders, traditional bodies that provided guidance at critical moments in history and that had assured harmony, law and order in the Territory. The fundamental concept of the Modern House of Tokelau was to reaffirm the three Councils and the traditional system of government, while enhancing them with modern advice regarding the inhabitants' modern needs. He welcomed the decision of the administering Power and UNDP to support the Modern House project for at least another year. Progress in the four main areas: good governance, capacity development, the Friends of Tokelau network and sustainable development would continue. Nevertheless, for the next three years, priority would be given to economic development, as set out in a draft plan to be discussed by the three Councils of Elders and the General Fono. Plans for strengthening the village management systems were also being considered.

43. The Ulu noted that no one should have any doubts about Tokelau's determination to build a nation — a small self-governing nation in accordance with United Nations principles. However, much help was needed and Tokelau sought guaranteed assistance from New Zealand and from the United Nations. The Territory

needed resources and training in health and education. It also needed to develop revenue-earning activities, so that it could cease to be totally dependent on aid from the administering Power. This would give Tokelau a sense of ownership and a higher level of responsibility. In that connection, Tokelau looked forward to redefining its relationship with New Zealand and determining the level and nature of guarantees in this relationship.

44. The Ulu stated that Tokelau could grow economically by developing its own fisheries industry. It needed more knowledge and skills to ensure a better return from its exclusive economic zone, other than the income earned from its association with the Forum Fisheries Agency and the issuance of fishing licences. The commercialization of fisheries was a priority in the three-year plan. In this connection, Tokelau required an injection of capital and skills training for its population. The 2001 census indicated that 50 per cent of the population of the Territory was under the age of 19. It was essential that Tokelau's young people should receive education and training in the context of the ongoing nation-building exercise.

45. Finally, the Ulu stated that, in the process of capacity-building, Tokelau was finding out what it was capable of doing for its own development and what its natural limitations were. It was planning to continue its dialogue with the administering Power and to plan ahead. He was pleased to inform the Committee that the Territory and the administering Power would be carrying out an in-depth analysis of their relationship so as to define it more precisely. Moreover, the administering Power was giving serious consideration to a request for the opening of an office in Wellington to facilitate dialogue between the partners and more effective support during the nation-building phase.

46. In August 2002, during the visit of the Special Committee's Mission to Tokelau, the Ulu made a further statement on Tokelau's progress towards self-determination. The full text of that statement was reproduced in document A/AC.109/2002/31, annex I.

Notes

[1] Updated information contained in the present paper has been derived from information transmitted to the Secretary-General by the Government of New Zealand on 11 March 2002, 18 September 2002, 3 December 2002 and 24 February 2003, from organizations of the United Nations system and from published sources.

[2] Communiqué, strategy meeting, 11-16 March 2002, Apia.

[3] Modern House of Tokelau Project, Report to the Joint Committee and Sponsors, May 2002.

[4] As at 7 April 2003, NZ$ 1.00 was equivalent to US$ 0.53.

[5] Tokelau-New Zealand Agency for International Development, Annual Programme Discussions, 30-31 August 2002, Agreed Record.

[6] UNDP programme of assistance to Samoa, Cook Islands, Niue and Tokelau, March 2001.

[7] Press release, "History in the making" (February 2002), and information transmitted by the Administrator of Tokelau.

[8] UNDP, Pacific Human Development Report, 1999.

[9] Information from WHO, 19 March 2001.

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Anguilla

Working paper prepared by the Secretariat

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I. Background information

A. Geography

1. Anguilla lies 240 kilometres east of Puerto Rico, 113 kilometres north-west of Saint Kitts and Nevis and 8 kilometres north of St. Maarten/St. Martin. The Territory has a relatively flat topography, a total area of 96 square kilometres and includes several offshore islets. The main island has a maximum length of 26 kilometres and a maximum width of 5 kilometres. The capital of Anguilla is The Valley, where 42 per cent of the population resides.

B. History

2. Originally inhabited by the Arawaks, Anguilla was first colonized by British settlers in 1650. For administrative purposes, it was associated with Saint Kitts and Nevis from 1871 to 1980. Following the dissolution of the Federation of the West Indies in 1962, Saint Kitts-Nevis-Anguilla became a State in association with the United Kingdom of Great Britain and Northern Ireland. In 1967, the Anguillan people staged a number of demonstrations to demand secession from Saint Kitts and Nevis. In the referendum held in July 1967, the vote was 1,813 to 5 in favour of independence. As a result, the legal ties to Saint Kitts were severed. Demonstrations and protracted negotiations were followed by the intervention of British security forces in 1969 and the Anguilla Act of 1971, whereby the United Kingdom reassumed direct responsibility for the administration of the Territory, appointed a Commissioner and provided for the establishment of an Island Council. A separate Constitution came into effect in February 1976. In 1980, the Territory formally withdrew from the Associated State of Saint Kitts-Nevis-Anguilla and became a separate dependency (now Overseas Territory) of the United Kingdom.

3. In 1981 further constitutional talks between the Governments of Anguilla and the United Kingdom were held. The Chief Minister of Anguilla recommended that a new constitution, while not providing for a full measure of internal self-government, should nevertheless grant a substantial degree of additional local responsibility to the Government of Anguilla. The Anguilla House of Assembly approved the changes and the United Kingdom enabled the Anguilla (Constitution) Order to come into force on 1 April 1982. An outline of the Order is provided in the report of the United Nations visiting mission to Anguilla of 1984 (see A/AC.109/799, paras. 19-27). After the general election of 1984, the newly elected Government appealed for wider powers for the Executive Council, as well as for more aid and investment in the Territory's economy and infrastructure from the United Kingdom.

4. The latest Anguilla Constitution (Amendment) Order was adopted in 1990. The current Constitution evolved from the 1976 and the 1982 Constitution Orders and is the fourth Constitution that applies solely to Anguilla.

C. Population

5. In 2002 the Government of Anguilla released official data from the latest census, conducted in 2001. According to the census, Anguilla's population was 11,561. Women made up 51 per cent of the population and men 49 per cent. The

average annual increase in the population between 1992 (year of the previous census) and 2001 was 3.2 per cent. This was a slightly lower increase than the 4.3 per cent between 1984 and 1992. There are several thousand Anguillans living abroad, particularly in the United States of America, the United Kingdom and the United States Virgin Islands. Non-Anguillans increased in proportion to the total population from 9.2 per cent in 1984 to 23.2 in 1992 to 27.4 per cent in 2001.

6. The 2001 census included a question on ethnic or racial origin for the first time since the 1960 census. According to the census, people of African descent made up 90 per cent of the population, compared to 78 per cent in 1960. The largest decline has been among those of mixed origin, who made up 5 per cent of the population in 2001 and 21 per cent in 1960. Caucasians made up 4 per cent of the population in 2001, compared to less than 1 per cent in 1960. According to the Department of Statistics, the change may be attributed to the difference in self-identification of the respondents.

7. For the first time, the 2001 census included a question on languages spoken. It showed that 99 per cent of the population speaks English well enough to carry on a conversation. Spanish or Chinese were the most common mother tongues among non-English speakers. Finally, when asked about their religion, 29 per cent of the population identified themselves as Anglicans, and 24 per cent as Methodist. Pentecostal, Church of God, Seventh Day Adventist and Baptist all represented 7 to 8 per cent of the population, while Roman Catholics represented 6 per cent.[1]

II. Constitutional, legal and political issues

A. Constitutional structure

8. According to the Anguilla (Constitution) Order 1982, the Government of Anguilla consists of a Governor, an Executive Council and a House of Assembly. The Governor, who is appointed by the Queen, is responsible for defence, external affairs, internal security, public services and offshore finance. On all other matters, the Governor is required to consult with and act on the advice of the Executive Council. The Executive Council consists of the Governor as Chairman, the Chief Minister, not more than three other ministers and two ex officio members (the Attorney General and the Deputy Governor). The House of Assembly is elected for five-year terms. It comprises a Speaker, seven members elected from single-member constituencies, the same two ex officio members as in the Executive Council and two members nominated by the Governor, one of whom is appointed after consultation with the Chief Minister and the leader of the opposition.

9. The powers of the Governor are considerable. He holds executive power to override the decisions of the Executive Council, with the approval of the Secretary of State. He appoints the ministers, the nominated members of the House of Assembly and the Parliamentary Secretary, who may be selected from among the elected or nominated members of the Assembly. The Governor presides over the Executive Council. At present the Governor of Anguilla is Peter Johnston, appointed in February 2000.

10. In March 1999, the Government of the United Kingdom of Great Britain and Northern Ireland issued a White Paper on the relationship between the United

Kingdom and its Overseas Territories, entitled "Partnership for progress and prosperity: Britain and the Overseas Territories" (for the text, see A/AC.109/1999/1 and Corr.1, annex; for key recommendations, see A/AC.109/1999/9, para. 28). The White Paper proposed the extension of British citizenship to the citizens of the Territories; at the same time, it required the Territories to amend their local legislation, in particular on human rights and on the regulation of financial services to meet international standards. The Bill received Royal Assent on 26 February 2002 as the British Overseas Territories Act 2002 (A/AC.109/2002/2/Add.1) and came into force on 21 May 2002. The new law grants the right to full British citizenship to all inhabitants of the Overseas Territories and formally abolishes the term "colony". Under the law, Anguilla Islanders can obtain British passports, which will allow them, among other things, to live and work in the United Kingdom and the European Union without restrictions. The acquisition of British citizenship is not mandatory. At the same time, the new law does not allow British and European citizens the reciprocal right to live in the Overseas Territories.[2]

11. Within the framework of the White Paper, the Committee for Constitutional and Electoral Reform, appointed in 2001, continued its work throughout 2002. In a number of public meetings different parts of the Constitution were discussed. The conclusion of the work of the Committee is expected in 2003.

12. According to information provided by the administering Power, the issues brought to light during the Constitutional Review process were discussed at the United Kingdom Overseas Territories Consultative Council in London in September 2002.[3] The Minister for Finance of Anguilla said that the review process in the Territory was still at the awareness-raising stage. However, early indications suggested that the population of the Territory wanted substantial reform of the electoral process and power-sharing between the Governor and elected representatives. The Chief Minister noted that, although Anguilla has had good Governors, two of them had been atheists. In his opinion they should never have been appointed to the Territory because Governors had to respect the culture and Christianity of the community. The British Minister for Overseas Territories remarked that it was unlawful to discriminate on grounds of religion or belief in making public appointments. Regarding the general issue of the power of the Governor, the British Minister agreed that the recommendations that received the strongest public support would be given careful consideration, but she could not guarantee that all proposals would be accepted. She also defended the role of Governors, saying that they had to ensure that standards and practices of the Overseas Territories were consistent with Her Majesty's Government's priorities and international requirements.

B. Legal system

13. The law of Anguilla is the common law of the United Kingdom, together with all legislation inherited from the former Associated State of Saint Kitts-Nevis-Anguilla up to August 1971 and the local legislation enacted since that date. The law is administered by the Eastern Caribbean Supreme Court, which comprises a Court of Appeal and a High Court of Justice, courts of summary jurisdiction and magistrate courts. The Chief Justice of the Eastern Caribbean Supreme Court has announced the introduction of new initiatives to improve the functioning of the courts in the subregion, which includes Anguilla. These initiatives include the

revision of the Supreme Court rules, case management, the need for court reporting throughout the subregion, computerization, unification of the Family Court, and the need for judicial reform and judicial education. According to press reports, the Anguilla Bar Association agrees in principle with the pursuit of a Caribbean Court of Justice to replace the British Privy Council as the legal redress of last resort, but it has reservations about full implementation. In 1991 the British Government abolished capital punishment for the crime of murder in Anguilla, as well as in several other British Dependent Territories.[4]

14. A number of legislative acts have been adopted in order to improve the regulation of the financial sector of Anguilla's economy, including the Proceeds of Criminal Conduct Act 2000, the Money Laundering Reporting Authority Act 2000, the Anti-Money Laundering Regulations 2000 and the Guidance Notes on the Prevention of Money Laundering.

C. Political parties and elections

15. As reported in the 2000 working paper (see A/AC.109/2000/15, para. 8), constitutional deadlock in 1999 led to a political crisis that was finally resolved by elections in March 2000. These elections brought to power a coalition formed by the Anguilla National Alliance and the Anguilla Democratic Party and led by Chief Minister Osbourne Fleming of the Anguilla National Alliance. This coalition, known as the United Front, was maintained throughout the review period. The Anguilla National Party is the opposition. The next elections are due by June 2005.

D. Political issues

16. Within the framework of the White Paper, which called, among other things, for a modernization of the relationship between the United Kingdom and each of its Overseas Territories, the representatives of the Governments of the United Kingdom and Anguilla agreed on a series of strategic objectives to promote economic and social development and democratic and accountable Government. These were embodied in a three-year Strategic Country Programme for 2000-2003, by which the Government of Anguilla undertook to implement a plan of action for economic and social development whose provisions included the expansion of public infrastructure, environmental management and improving public services. The Government of the United Kingdom agreed to assist in the implementation of the programme by providing £2.25 million in 2000/01, £1.7 million in 2001/02 and £1.5 million in 2002/03.

17. As was reported in last year's paper (A/AC.109/2002/3, para. 16), another aspect of the White Paper was the requirement that Anguilla review its Constitution to ensure that it conformed to the United Kingdom's international obligations, particularly with regard to human rights and financial regulations.

18. The Chairman of the Constitutional Review Committee requested the assistance of the United Nations Development Programme (UNDP) in providing information on, inter alia, the following themes: the role of the State in economy and society; sovereignty in the context of "globalized" decision-making; cooperative governance arrangements; appropriate constitutional forms for small States; methods of phasing in new constitutional arrangements; the rights, duties and

responsibilities of peoples; the promotion of civil society; and the development of institutions for popular participation in decision-making.

III. Budget

19. In December 2002, Anguilla's Minister for Finance and Economic Development introduced in the House of Assembly the 2003 budget document entitled "Being Effective Stewards Today". He affirmed that the budget came at the end of a difficult financial year. There had been zero gross domestic product (GDP) growth for 2002. He also reported that tourist arrivals for January-October 2002 were 12.3 per cent below the same period in 2001. The construction sector also showed weak performance. The revenue from import duties fell from 52 per cent of total revenue in 2001 to 37 per cent in 2002. Given an accumulated fiscal deficit of Eastern Caribbean dollars (EC) $15.5 million at the end of 2001, the Ministry of Finance recommended special measures to restore fiscal stability. These measures included the following: 7 per cent cut in budgeted expenditures; a hiring freeze; improved collection of property tax, accommodation tax and business licences; an increase in the embarkation tax; new airline ticket, airport security, and tourism marketing taxes; and a drive to increase revenue from the offshore sector. On the basis of the proposed measures, the United Kingdom allowed the accumulated deficit to be converted into a long-term loan, thus reducing the Government's interest costs. As a result, recurrent expenditure for 2002 was expected to total EC$ 82 million, 2.8 per cent above the 2001 figure, but 15.4 per cent below the budget projection of EC$ 96.2 million. Recurrent revenue for 2002 was projected at EC$ 79 million, up by 8.7 per cent from 2001. The overall deficit for 2002 was estimated at EC$ 3.5 million, or just over 1 per cent of GDP.[5]

20. According to the 2003 budget document, the Government will continue efforts to stabilize the economy. The 2003 budget estimated EC$ 89 million recurrent expenditure to finance government services. The recurrent revenue budget was established at EC$ 92.1 million, showing a revenue surplus of EC$ 3.1 million. Presenting the budget, the Minister announced that a number of fees would be increased to reflect their economic cost. Other fees were to be adjusted in line with inflation and other economic conditions. Pier dues, tonnage dues, port dues, telecommunications fees and court fees were among the areas to be affected by the revenue-raising measures. The Minister also addressed the issue of property taxes. In 2002 a task force worked with the Lands and Surveys Department to ensure that all properties were registered in order to improve tax collection. In addition, the Minister for Finance announced the introduction, as from 1 January 2003, of an environmental levy to be collected by the Anguilla Electricity Company on behalf of the Government with the payment of electricity bills. The tax would be at the rate of 5 per cent of the electricity bill of each household or business. This is expected to provide $1.5 million in 2003. An additional 1 per cent duty will be added on all imported items. According to the Minister, it would be a temporary measure, to be reviewed following the restoration of fiscal stability. The revenue yield from this measure would amount to an estimated $2.3 million.[6]

21. Expenditure controls will also be strengthened, and a new fiscal review team would report each month to a fiscal evaluation group chaired by the Finance Minister. Total capital spending for 2003 is a projected EC$ 37 million. Locally funded capital expenditure is budgeted at EC$ 14 million, to be offset by local

capital revenue of EC$ 15 million, raised mainly by the local sale of shares in the electric company, Anglec, by March 2003. An additional EC$ 23 million in capital spending will be funded from external sources, to include EC$ 8 million in United Kingdom grants, an EC$ 5.4 million grant from the European Development Fund and an EC$ 9.9 million Caribbean Development Bank loan for road construction.[7]

IV. Economy

A. General

22. As reported in the previous working papers (A/AC.109/2001/13 and A/AC.109/2002/3), after a decade of rapid growth, the economy of Anguilla slowed in 2000 as a result of natural disasters. In particular, hurricane Lenny, which hit at the end of 1999, inflicted US$ 62 million worth of damage. The sharp drop in the number of tourists has resulted in an economic contraction and, as a consequence, a decline in government revenues, at least in the short term. In addition to tourism, another substantial source of revenue for Anguilla is remittances sent back to the Territory by several thousand Anguillans working abroad, mostly in the United States, the United Kingdom and the United States Virgin Islands. Such income naturally falls when recession hits those countries' economies. Thus, the slowdown in remittance flows has placed additional pressure on the economy.[8]

23. According to the Economist Intelligence Unit, the gross domestic product (GDP) totalled EC$ 291.5 million in 2001 and EC$ 307.1 million in 2002. For 2003 zero growth of GDP was projected.

24. According to the Government of Anguilla, economic projections for 2002-2004 suggest that the overall picture would mainly depend on developments in merchandise imports and the tourism industry. The current account deficit is anticipated to increase in 2003, mostly owing to the planned construction projects (airport, roads resurfacing and a new golf course). Some recovery is expected in the tourism sector, subject to positive economic developments in the United States. Foreign direct investment is expected to grow in 2003, mostly in construction.

25. The Government of Anguilla is constrained by its status as a British Overseas Territory from borrowing freely on the money markets. In this regard, the Government intended to develop a financing strategy, including a borrowing strategy, particularly to deal with the fiscal deficit. At the meeting of the United Kingdom Overseas Territories Consultative Council in London in September 2002, the borrowing guidelines, as set out by the White Paper, were discussed. Anguilla's Finance Minister said that he understood the need for enhanced financial discipline. Nonetheless, he argued that Anguilla would have problems in building up reserves to the level required by the relevant ratio. Since Anguilla did not have the social safety net to protect the unemployed, public service employment levels would have to be maintained. The Minister affirmed that the Anguilla Government was prepared to work with Her Majesty's Government to agree on borrowing guidelines, provided that they took account of the Territory's particular difficulties.

26. The problems faced by the economy of Anguilla during the past year, leading to reduced economic growth, presented significant challenges to the Government in the implementation of the strategic country programme for 2000-2003. Under this

programme the Government of Anguilla agreed that it was necessary to diversify the economy so as to reduce its vulnerability to external shocks. A new stage of the Strategic Country Programme was negotiated between the Government of the United Kingdom and the Government of Anguilla in May/June 2002. The Programme defined the respective responsibilities of the two Governments to work together towards the sustainable development of the Territory. According to the plan, the United Kingdom development assistance programme for Anguilla, administered by the Department for International Development, would be £2.9 million over the next two years. In addition, Anguilla would also benefit from Department-funded regional British overseas projects. The development assistance would support economic growth and self-sufficiency through sensible economic growth and financial management, and would ensure that basic needs were met. The main elements of the Department's programmes would be poverty assessments, education, good governance, health and social development.[9]

B. Economic sectors

Agriculture and fishery

27. Agricultural activity in Anguilla is extremely limited by a combination of factors, including poor soil, the small amount of arable land and irregular rainfall. Notwithstanding the dry conditions and unpredictable rainfall patterns prevailing in Anguilla, agriculture continues to play an important part in the livelihood of the local people.

28. Agriculture and fishing contributed 2.5 per cent to GDP in 2000 and engaged 4.2 per cent of the employed labour force. In 2002, the Anguilla Department of Agriculture estimated that the total agricultural output, without including hydroponic produce, amounted to EC$ 634,000, compared to EC$ 629,000 in 2001.[10]

29. According to press reports, at the end of 2002 an American fishing company (North Atlantic) proposed to the Government of Anguilla to establish a fish-processing project in the Territory. The project would include the participation of individual fishermen of the Territory. The company, which is a leading purchaser of fish from South and Central America, is primarily interested in tuna, sword-fish, shark, snapper and other fish close to shore. In February 2003, the Chamber of Commerce in Anguilla appealed to all local fisherman to examine the business plan and to participate in the project.[11]

Industry/manufacturing

30. Industry, including mining, manufacturing and construction, accounted for 17.5 per cent of GDP in 2000 and engaged 20.6 per cent of the employed labour force. According to the Eastern Caribbean Central Bank, industrial GDP increased by an annual average of 7.5 per cent from 1994 to 2000 but decreased by 5.2 per cent in 2000 in real terms, primarily owing to a reversal in the sharp expansion of construction activity.[12]

31. The small mining and manufacturing sector comprises salt production, building-block manufacturing and shipbuilding. The mining and quarrying sector contributed only 0.9 per cent of GDP in 2000 and engaged only 0.2 per cent of the

working population. Boatbuilding and fish processing accounted for 1.1 per cent of GDP.

Tourism

32. Tourism continues to dominate the Anguillan economy. The hotel and restaurant sector is the largest contributor to GDP, accounting for 26.1 per cent in 2000. Tourist expenditure for 2000 totalled EC$ 149.2 million. In 2001 the tourist industry, which was still recovering from the natural disasters of the previous two years, suffered immediate and severe consequences of the attacks of 11 September. Stopover tourism in 2001 recorded 49,100 visitors, with 63 per cent of them coming from the United States and 17 per cent from Europe. In 2002, according to the Chief Minister and Minister for Tourism, the tourist industry employed 1,587 persons or 26 per cent of Anguilla's labour force and provided EC$ 15 million in revenues to the Government.[13]

Finance

33. Anguilla has a small but rapidly expanding international finance sector, specializing in trust and company registration, which brings in about 13 per cent of the Territory's GDP. Anguilla entered the field of financial services relatively late, the key legislation having been passed in 1994. There are no income, estate or capital gains taxes. Nor are there any exchange controls, and, although the official currency is the Eastern Caribbean dollar, the United States dollar is commonly used.

34. As has been reported in the previous working papers (see A/AC.109/2001/13, paras. 31-35 and A/AC.109/2002/3, paras. 43-47), Anguilla's financial services largely meet current international standards. Nevertheless, in June 2000 the Organisation for Economic Cooperation and Development (OECD) listed Anguilla as one of 35 jurisdictions whose tax regimes were potentially harmful to the rest of the world. In March 2002, Anguilla committed to cooperate with OECD and was removed from the list of uncooperative tax jurisdictions.[14] Attached to the letter of commitment was a phased implementation plan outlining the measures that the Government will take by end of 2005 to conform to the principles of transparency and effective exchange of information.

35. In the following months, the OECD continued to exercise pressure on the jurisdictions on its original list. In April 2002 it unveiled a model agreement for effective information exchange, which would target taxes on income or profit, capital, net wealth, and on estate, inheritance and gifts. At the same time, the targeted jurisdictions entered jointly into negotiations with OECD in order to protect their sovereignty and the privacy of their clients. Between 26 October and 1 November 2002 Anguilla participated in the meeting of OECD members with representatives of the targeted jurisdictions hosted by the Government of Cayman Islands.[15]

36. The issue of cross-border taxation of saving accounts, including in offshore financial centres, has been discussed within the framework of the European Union since 1998. Following the request by the Government of the United Kingdom in October 2002 that the Caribbean Overseas Territories provide details of all savings account holders registered in the Territories by 15 November 2002, the Ministers of the non-self-governing Territories, including Anguilla, held an emergency meeting in the Cayman Islands. Although the Territories reaffirmed their willingness to

cooperate, they stressed the need for a fair, transparent and non-discriminatory approach to the problem.[16]

37. Yet another initiative related to taxation was undertaken by the European Union in March 2003. According to press reports, European Finance Ministers decided that their tax authorities would automatically exchange information among each other. This decision would affect the Overseas Territories, including Anguilla. Some countries, however, were granted a transitional period before entering into the agreement. The plan has drawn protests from Caribbean Overseas Territories.[17]

38. In order to strengthen regional economic integration in 2002, Anguilla offered its financial products in a newly opened stock exchange in St. Kitts. The stock exchange will trade corporate stocks and government securities in Anguilla.[18] According to press reports, in the first year of operation the securities exchange saw moderate trading.[19]

39. The Government continued to focus on the development of Internet-based commerce. The domain name registry project commenced operations in September 2001. Owing to discouraging global economic prospects, the projections for revenue from this source had to be revised downwards, but significant results were expected in 2002.

C. Transport and communications

Roadways

40. According to 1998 estimates, Anguilla has a total of 279 kilometres of roads, of which 253 are paved. The continuation of the Government's road improvement programme was the second priority of the capital budget (after development of the airport). In 2000 the Government spent EC$ 5 million on roads, most of it financed by the National Bank of Anguilla and the Caribbean Commercial Bank. In its 2001 budget the Government committed EC$ 15 million to road improvement. Of this, $10 million would come from a loan from the Caribbean Development Bank and $5 million from European Development Fund grants.

41. According to Police Department statistics, in 2001 there were 5,829 licensed vehicles on the road and 3,737 drivers' licences issued in Anguilla. In November 2002, the Department of Infrastructure produced five thousand maps and installed new directional and road signs to enable members of the local population and tourists to familiarize themselves with the road system.[20]

42. At the beginning of 2003, the Hurricane Lenny Rehabilitation Road Programme started at East End and Little Harbour. The initial stage of the project will cost EC$ 7.88 million and it should be completed in ten months. The Government of Anguilla contributed EC$ 780,000 while the Caribbean Development Bank provided a loan for EC$ 7.1 million.[21] The total cost of the programme will be EC$ 12 million. According to press reports, the loan will cover 80 per cent of construction costs while the Government will cover the remaining 20 per cent.[22]

Seaports

43. Anguilla has two ports, one at Blowing Point and the other at Road Bay. As of December 2001 Anguilla had three ships registered with Lloyd's of London, with a total displacement of 701 tons.[23] In its 2001 budget the Government proposed transforming the Seaport Department into a corporate entity with a view to achieving long-term sustainable and autonomous funding.

Airports

44. Anguilla has three airports, two of which are unpaved and have runways less than 1,000 metres long. The main airport, Wallblake, is paved and has a runway of 1,100 metres. As there are no refuelling facilities, aeroplanes can land only when carrying enough fuel to return, limiting the loads they may carry. The Government's top capital expenditure priority in 2001 was the acquisition of land near the airport in order to begin expanding it in 2002.

45. As reported in last year's working paper (A/AC.109/2002/3, para. 51), the 2003 budget allocated EC$ 2.4 million to compensate landowners for the acquisition of their land and buildings for the extension of the runway of Wallblake Airport. According to the initial plan the extended runaway would have measured 4,600 feet.[24] However at the beginning of 2003, after meeting with the British Government, the Chief Minister announced that the runway would be extended to 5,606 feet and that the overall project would cost $19 million. This extension would allow private jets to land on the island. The target date for starting the airport work is September 2003. According to the Minister for Finance, the British Government has approved the borrowing of up to $15 million from commercial banks in Anguilla and the Caribbean Development Bank, while $7 to $8 million should be made available under the European Development Fund. Finally, the Anguilla Government will contribute an additional $4 million from the sale of shares in the Anguilla Electricity Company, as well as from recurrent surpluses.[25] It is expected that the runway will be completed by March/April 2004 without disruption of service during the period of construction.

Communication

46. Anguilla has a modern internal telephone system and a microwave relay to St. Maarten/St. Martin for international calls. The system is operated under a monopoly by Cable & Wireless Ltd., which has a number of Caribbean franchises. The communications sector accounts for 11.9 per cent of real GDP.

47. Among measures to improve the economic situation in the Territory, the Government proposed the liberalization of the telecommunications sector. The Ministry of Infrastructure, Communications and Utilities produced a telecommunications policy document and a timetable for phased liberalization, to be implemented from 2001 to 2003.[26]

48. In 2002, Cable & Wireless took steps to improve service. It launched a new high-speed Internet service in Anguilla. The new system will offer more bandwidth over the existing copper telephone wires, allowing simultaneous voice and Internet service.[27]

49. In an attempt to stabilize the territorial budget, the Government imposed, as part of the 2003 budget, an increase in the fee to be paid by the local cable TV

company to the Government per subscriber per month. As of January 2003, the fee increased from $1 to $1.80.[28]

V. Social conditions

A. General

50. Living standards and social indicators in Anguilla compare favourably with those of other countries in the region. The literacy rate is 95 per cent. According to the results of the 2001 census, the life expectancy for a female at birth is 78 years, while for a male it is 77.9 years, showing a considerable increase from 1974 when it was 69 years for females and 65 years for males.

51. Anguilla has had a social security scheme since 1982. In the 2001 budget the Government announced plans to establish a permanent programme within the Social Security Board to assist the elderly and other economically deprived groups. In 2002 the Minister of Finance reported that the British Government had provided assistance for initial studies and was funding the Country Poverty Assessment Project. The results of these undertakings will determine the extent of further assistance to vulnerable social groups.

52. In July 2002, within the framework of the Country Poverty Assessment Project, the Government of Anguilla conducted a survey on Anguillean household income and expenditure. The survey showed that there are five income groups with approximately equal number of households, with the income brackets ranging from less than EC$ 20,930 at the lower end to more than EC$ 92,342 at the higher end. According to the survey's preliminary estimates, the average annual overall spending per household was EC$ 49,720.[29]

B. Labour

53. According to the most recent census, in 2001 the economically active population in Anguilla (persons aged 14 years and over) numbered 6,050 (3,222 males and 2,828 females). At that time, 28.6 per cent worked in hotel and restaurants, 14.9 per cent in construction, 11.9 per cent in the public administration, and 7.8 per cent in financing and insurance. Unemployment was 6.7 per cent.[30] According to the Labour Force Survey and the Poverty Survey completed in July 2002, the unemployment rate was 7.8 per cent of the total labour force.

C. Education

54. Education is free and compulsory between the ages of 5 and 14. There are six government primary schools and one government secondary school, the Albena Lake-Hodge Comprehensive. As part of the government policy to enable Anguilla to meet both its present and future needs, the problem of overcrowding is being addressed by the construction of another campus, as well as the implementation of curriculum reforms. In 2001, the Albena Lake-Hodge Comprehensive School enrolled 1,147 students, of whom 586 were female and 561 male.[31]

55. According to the Minister of Finance, in 2002 the Government focused on planning for the rehabilitation and upgrading of the facilities of the Albena Lake-Hodge Comprehensive secondary school and the expansion of educational service delivery to include tertiary-level programmes, especially in tourism and technical and commercial occupations and subjects. The Government also intends to develop plans for adult and continuing education and to hold initial discussions on the need for a community college.

56. In February 2003, the Anguilla Government distributed 80 computers and 30 printers to public primary schools. The equipment was provided by the Mount Sinai School District of New York.[32] The Cable & Wireless Ltd. offered high speed Internet Service to the Public Library and all schools on the Island. The new system will cost Cable & Wireless EC$ 20,000 a year.[33]

D. Public health

57. Despite the economic problems, the Government remains committed to providing primary health care for all Anguillans. Its health priorities include the conversion of the Princess Alexandra Hospital to a statutory health authority; the strengthening of the Primary Health Care Department; the expansion of mental health and psychiatric services; the development of the Environmental Health Section of the Primary Health Care Department; and the improvement of the coverage and quality of solid-waste disposal services. The Government also planned to transform the Primary and Secondary Health Departments into a Health Authority. Among the priorities will be the expansion of the Water Laboratory, the completion of the maternity suite at the Princess Alexandra Hospital and the completion of the dialysis facility.

58. The United Kingdom Department for International Development is funding the health sector strategy to support the Government of Anguilla in health sector reform. In December 2002, the report for the establishment of a Health Authority in Anguilla was presented to the Minister for Social Development.

59. In January 2003, a new polyclinic opened at Welches, in the eastern end of Anguilla. The new structure will provide a full range of medical, dental and nursing services to residents in that part of the island. The British Government contributed EC$ 536,000 towards the cost of the construction, and the Anguilla Government provided over EC$ 480,000 from its consolidated fund. The new facility replaced the Island Harbour Clinic, which was located in an area that usually flooded during heavy rain.[34]

E. Immigration

60. As was reported in the previous working paper (A/AC.109/2002/3, paras. 62-64) Anguilla's economic development, over the past decade, created a demand for labour from outside the island.

61. According to latest census estimates, non-Anguillans have increased in proportion to the total population from 9.2 per cent in 1984 to 23.2 per cent in 1992 to 27.4 per cent in 2001. The largest proportion of non-Anguillans is among those of working age, coming in particular from Commonwealth Caribbean countries. This

category showed the largest increase between 1992 and 2001, namely, from 10 per cent to 15 per cent.

62. In 2002, the Anguilla Government decided to impose visa restrictions on citizens from Jamaica and Guyana in an attempt to restrict illegal employment. According to the Government, while other Caribbean islands could afford to entertain free movement, Anguilla simply did not have the capacity to do so. The Governments of Jamaica and Guyana requested the Secretary General of CARICOM to use his good offices to bring about a solution to the impasse, saying that the action taken by Anguilla ran contrary to the letter and spirit of regional grouping.[35]

F. Crime

63. As reported previously (A/AC.109/2002/3, para. 69), the crime rate in Anguilla is relatively low by regional standards.

64. In the 2001 Census, the inhabitants of age 15 and over were asked if they had ever been victims of crime in the past year. Of all the respondents, 2.6 per cent answered positively and of these 70 per cent had reported the crime to the police. According to the survey, white people were more often victims of crime than people of other ethnic origins. However, those of mixed ethnic origin were more likely to report the crime to the police.

VI. Environment

65. As described in previous years (see A/AC.109/2000/15, paras. 32-34 and A/AC.109/2002/3, para. 70), the Government of Anguilla is committed to an action plan on the environment as part of its strategic country programme agreement.

66. Considerable support is provided to Anguilla by the environmental projects of the Department for International Development within the framework of the United Kingdom Environmental Charter for the Overseas Territories. Anguilla will benefit from a new £1.5 million fund for environmental issues in the Territories, set up by the Foreign and Commonwealth Office. The territorial Government will cooperate with the Government of the United Kingdom to achieve specific goals related to conservation of natural resources and sustainable development, within the framework of the Anguilla Environment Charter.[36]

VII. Relations with international organizations/arrangements

67. Anguilla is a member of the Eastern Caribbean Central Bank, the Organization of Eastern Caribbean States and an associate member of the Association of Caribbean States and the Economic Commission for Latin America and the Caribbean and of the Caribbean Community and Common Market. As a dependency of the United Kingdom, Anguilla has the status of Overseas Territory in association with the European Union.

68. The Government of Anguilla cooperates directly with other Caribbean Governments and participates in regional projects of the international organizations and agencies.

69. In June 2002, representatives of Anguilla participated in the meeting of the Organization of Eastern Caribbean States (OECS) in St. Kitts. During the meeting, leaders from OECS countries discussed progress reports on the free movement of their nationals, and the OECS Economic Union project.

70. A representative of Anguilla was invited to participate in the World Summit on Sustainable Development held in South Africa between 26 August and 4 September 2002.[37]

VIII. Future status of the Territory

A. Position of the territorial Government

71. The constitutional review is being undertaken by the Constitutional Review Committee, set up by the territorial Government in cooperation with the administering Power and with the assistance of UNDP. Throughout 2002, Anguilla Government organized a series of town hall meetings to discuss proposed constitutional amendments and the Territory's relationship with the United Kingdom (see also para. 12).

B. Position of the administering Power

72. On 1 October 2002, the representative of the United Kingdom made a statement before the Special Political and Decolonization Committee (Fourth Committee) (see A/C.4/57/SR.3) in which she said that her Government, as an administering Power, was pleased to report that further progress had been made towards modernization and development of the relationship between the United Kingdom and its Overseas Territories. The fourth annual meeting of the Overseas Territories Consultative Council had been held in London in September 2002, providing a forum for structured political dialogue between democratically elected Chief Ministers and Ministers of her Government with regard to the relationship, based on partnership, between the United Kingdom and its Territories. It also enabled those present to consult on matters, such as the process of constitutional review, human rights and environmental issues arising from the United Kingdom's international commitments.

73. The partnership between the United Kingdom and its Overseas Territories continued to evolve: on 26 February 2002, the British Overseas Territories Act had become law, with effect 21 May 2002, granting citizens of the Territories British citizenship, with right of abode in the United Kingdom and freedom of movement in Europe; it formally changed the nomenclature from "Dependent" to "Overseas" Territories in order to more accurately reflect the nature of the relationship. Furthermore, constitutional review was under way in almost all the Territories, for the first time with the participation of locally appointed review commissions, with a view to providing each Territory with a modern constitution suitable for its long-term development which reflected its specific circumstances. Some reviews were almost complete, others were well under way, and Ascension Island, for example, would have an elected island council by the end of 2002.

74. The United Kingdom representative added that work was under way to implement the Guiding Principles of the Environment Charter for the Overseas Territories, adopted in September 2001. Pilot projects had been approved for two Territories and would be carefully monitored for suitability elsewhere. Multilateral environmental agreements would be extended to the Territories and national legislation would be strengthened. Projects had been implemented to address key areas, such as habitat restoration, surveys of living resources, tackling of invasive species and capacity-building for civil society institutions. Her Government would also assist the Territories to access regional and bilateral European Commission trade, economic and development assistance within the framework of the November 2001 Overseas Association Decision.

75. The wishes of the peoples of the Territories, exercised in accordance with the Charter of the United Nations and other international treaties, were of paramount importance for the United Kingdom. The relationship between her Government and its Territories was based on fundamental principles, such as self-determination, mutual obligations, freedom for the Territories to run their affairs to the greatest degree possible and the firm commitment from her Government to help the Territories economically and during emergencies.

76. The representative of the United Kingdom said that there was a basic commonality of approach between her Government and the Committee and she therefore regretted that certain resolutions, in particular those of the Special Committee on Decolonization, did not always properly reflect that commonality. The annual omnibus resolution recalled that there was no alternative to the principle of self-determination and it was unfortunate that the Special Committee continued to apply that principle selectively. Her Government fully intended to continue to work with the Special Committee, as had been demonstrated by the presence of a representative of her Government at the regional seminar of the Special Committee held in Fiji in 2002.

C. Consideration by the United Nations

77. On 11 December 2002, the General Assembly adopted, without a vote, resolution 57/138 A and B, section II of which concerns Anguilla.

Notes

[1] *Demography, Culture, Migration, Crime, Marital Status and Fertility of the Resident Population of Anguilla according to the May 2001 Census*, Statistic Department, Ministry of Finance, Government of Anguilla. http://www.gov.ai/statistics/census/index.htm.

[2] The Observer, London (United Kingdom), 12 May 2002.

[3] The Fourth Overseas Territories Consultative Council, Report of the Proceedings, 26-27 September 2002.

[4] *Europa World Yearbook 2002*: "United Kingdom Overseas Territories: Anguilla".

[5] Economist Intelligence Unit, *Country Profile: Anguilla, 2001/2002*.

[6] *The Anguillian*, 13 December 2002.

[7] Economic Intelligence Unit. Budget 2003.

[8] NewsEdge, 14 January 2002.

[9] Department for International Development (DFID) — Anguilla.

[10] Statistic of Department of Agriculture.

[11] *The Anguillian*, 16 January 2003; 27 February 2003.

[12] *Europa World Yearbook 2002*: "United Kingdom Overseas Territories: Anguilla".

[13] *The Anguillian*, 6 February 2003.

[14] "Commitment of Anguilla". http://www.oecd.org/pdf/M00027000/M00027081.pdf.

[15] http://www.oecd.org/EN/document/0,,EN-document-103-3-no-12-36128-0,00.html.

[16] *Wall Street Journal*, 22 November 2002

[17] www.accountancyage.com.

[18] *Financial Times*, 2 January 2002.

[19] *BBC Monitoring Americas*, 1 November 2002.

[20] *The Anguillian*, 16 November 2002.

[21] *The Anguillian*, 23 January 2003.

[22] *The Anguillian*, 16 November 2002.

[23] *Europa World Yearbook 2002*: "United Kingdom Overseas Territories: Anguilla".

[24] *The Anguillian*, 13 December 2002.

[25] *The Anguillian*, 20 February 2003.

[26] NewsEdge, 28 September 2001.

[27] *The Anguillian*, 11 November 2002.

[28] *The Anguillian*, 13 February 2003.

[29] Anguilla Government "Poverty Assessment Study" www.gov.ai/statistics/Press%20Release%20Poverty.htm#_ftnref2.

[30] Populat on Census 2001.

[31] http://www.gov.ai/statistics/EDUCATION%20TABLES.htm.

[32] *The Anguillian*, 13 February 2003.

[33] *The Anguillian*, 6 March 2003.

[34] *The Anguillian*, 6 February 2003.

[35] *BBC Monitoring Americas*, 5 July 2002.

[36] www.dfid.gov.uk.

[37] A/CONF.199/2.

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

American Samoa

Working paper prepared by the Secretariat

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I. Background information

1. American Samoa[1] is located in the South Pacific approximately 3,700 kilometres south-west of Hawaii and 4,350 kilometres north-east of Australia. It consists of seven islands (Tutuila, Aunuu, Ofu, Olosega, Tau, Swains and Rose) and several lesser islands belonging to the Samoan group. The total land area is 197 square kilometres, about 70 per cent of which is covered by dense forest. Tutuila, where Pago Pago, the capital, is located, is the largest island; it constitutes 70 per cent of the total land area and is home to 90 per cent of the population.

2. It is generally believed that the Samoan archipelago was settled some 3,000 years ago by people migrating into the Pacific from South-East Asia. The Dutch were the first Europeans to find these islands, in 1722. Some settlers came to the islands in the early 1800s, followed by missionaries in 1830. By the late 1800s, internal strife among the chiefs and struggles among the colonial Powers of Germany, Great Britain and the United States of America led to a period of instability. Deeds of cession of these islands to the United States were formally accepted by means of an Act of Congress on 20 February 1929. Pursuant to this Act, the native inhabitants were given the status of American nationals. The Act provided for an American Samoan Government with all civil, judicial and military powers to be vested in a designee of the President of the United States. As the American interest in the area had been mainly military, the Territory was placed under the jurisdiction of the United States Navy. In 1951, an executive order transferred authority over the Territory to the Department of the Interior.

3. According to the releases of the census conducted in 2000 and published in February 2002, provided by the administering Power, the population of American Samoa was 57,291, of which 51.1 per cent was male and 48.9 per cent was female. The annual population growth rate is 2.64 per cent. Since 1990, the population has increased by 22.5 per cent. Ethnically, the population breaks down into 91.6 per cent native Hawaiian and other Pacific Islanders (including 88.2 per cent Samoan and 2.8 per cent Tongan), 2.8 per cent Asian and 1.1 per cent Caucasian. Of the native population, 56.7 per cent were born in American Samoa, 6.3 per cent in the United States, and 36.1 per cent were foreign born. Some 90.6 per cent of the population 5 years of age and older speaks Samoan, which is closely related to Hawaiian and other Polynesian languages, and English; and 2.9 per cent speaks English only. The literacy rate is 97 per cent. The median age is 21.3 years. Life expectancy is 75.32 years, with male life expectancy at 70.89 years and female life expectancy at 80.02 years. The annual birth rate is 24.88 births per 1,000 population and the annual death rate 4.31 deaths per 1,000 population. The annual net migration rate is 3.58 migrants per 1,000 population.

II. Constitutional, legal and political issues

4. American Samoa is a Non-Self-Governing Territory under the administration of the United States of America. The Constitution adopted in 1960 was revised in 1967 and was subsequently amended in 1970 and 1977. Any amendments or modifications to the Constitution of American Samoa (as approved by the Secretary of the Interior) may be made only by an act of the United States Congress. In 1978, the people of American Samoa for the first time elected their own Governor. Since 1981, American Samoa has also elected, by direct vote, a non-voting delegate to the

United States House of Representatives, who can, however, vote in committees. The most recent election was held in November 2002 (see para. 8).

5. As American Samoa is an unincorporated and unorganized Territory of the United States, not all provisions of the United States Constitution apply. Residents of American Samoa are not United States citizens. They cannot vote in the United States general election but are permitted to participate in presidential primaries and caucuses. They are United States nationals who can freely enter the United States and work or reside anywhere they choose. American Samoa has its own immigration laws, and entry into American Samoa by foreigners is not the same as entry into the United States (in contrast with Guam, where United States immigration laws apply).[2] With respect to citizenship, the House of Representatives of American Samoa passed a resolution in September 2002 preventing babies born in the Territory to foreign parents from automatically becoming United States nationals. According to the resolution those children should become citizens of either the mother's or the father's country of origin.[3]

6. The special status of the Territory vis-à-vis immigration manifested itself in August 2002, when the Attorney General of the Territory modified local immigration laws by prohibiting entry of "any individual of Middle Eastern descent" into American Samoa without his prior approval. The decision was taken after a security alert caused the closing of the United States Embassy in Samoa.[4] After the measure drew widespread criticism, the authorities argued that the decision was based on a similar act by the United States immigration authorities. In December 2002, the decision was withdrawn. In the same month, however, the Attorney General issued a new security alert, saying that the Territory would no longer issue permits to people from Fiji and 23 other countries[5] without his specific approval.[6]

7. The Constitution provides for separate executive and legislative branches and an independent judiciary. All American Samoans over 18 years of age are eligible to vote. The executive branch comprises a Governor and a Lieutenant-Governor elected for four-year terms by universal adult suffrage. The Governor is responsible for executing both American Samoan and United States laws and has veto power with respect to legislation passed by the Fono. The Fono is a bicameral legislature, which comprises an 18-member Senate whose members are chosen by 14 traditional tribal councils, and a 21-member House of Representatives, with the members elected by popular vote. Only *matais* (or chiefs) can become senators. Senators hold office for a four-year term, and representatives for a two-year term. The Fono may pass laws with respect to all local affairs, provided its laws are not inconsistent with United States laws in force in the Territory or with United States treaties or international agreements.

8. In November 2002, general elections were held in the Territory. According to press reports, there were 14,814 voters registered to elect the representative to the United States Congress and 20 of the 21 members of the local House of Representatives,[7] the additional seat being held by the Swain Island's delegate. The American Samoa election office asked Swain Islanders to hold a meeting to choose their representative because the office had decided against spending US$ 10,000 to organize the poll for three people living in this isolated island.[8] Of the 20 representatives, 14 were re-elected from the previous Legislature. In the election for the United States Congress, none of the candidates reached the required 50 per cent plus one vote in the first round. Later in November, a run-off election took place and

Eni F. H. Faleomavaega won his eighth consecutive two-year term after receiving 4,959 votes, or 54.8 per cent, of the votes counted.[9]

9. The main business of the Government is the management and distribution of federal income and capital subsidies. The traditional communal system provides the basis for a strong Government whereby leaders are responsible not only for preserving the social order but also for the economic welfare of the extended family. The federal Government underwrites most of the cost of preserving this system. This affiliation allows the United States to have access to and use of the Territory for defence and other purposes. The number of employees in the Government reached almost 30.9 per cent of the entire employed civilian population 18 years and older.[10] The Government also manages power, water and sewer systems through the American Samoa Power Authority.

10. The judiciary system consists of the High Court, with the Chief Justice and the Associate Justices appointed by the Secretary of the Interior, and the local District and Village Courts, with the judges appointed by the Governor. The current Chief Justice is the first native Samoan to be appointed to the position. The High Court is divided into Appellate, Trial and Land and Titles. Since American Samoa is not part of a United States federal judicial district or circuit, there are no statutory provisions for appealing decisions of the High Court. American Samoa laws are textually identical to United States laws ("mirror laws"), where all references to the United States are substituted by references to American Samoa.

11. Since 2001, the question of applicability of the United States federal jurisdiction in the Territory has been widely discussed at the local and federal levels. The issue was brought to light in connection with the investigation of the Daewoosa Samoa garment factory and medical insurance fraud cases. Federal officials asserted that the District Court of Hawaii had jurisdiction to decide cases involving violations of federal criminal law that occur in American Samoa. The Court of Hawaii eventually took a decision on the case (see para. 39). However, the debate continued throughout 2002. In particular, it focused on the need to establish a federal district court in American Samoa. In an August meeting with the local Fono, the United States Deputy Assistant Secretary of the Interior maintained that the Department of the Interior would not appoint an Attorney General unless the decision came from the people and leaders of the Territory.[11] A congressional survey showed that some 78 per cent of American Samoa respondents favoured the establishment of a federal court with limited jurisdiction. About 84 per cent also considered that American Samoa should have a United States attorney/federal prosecutor to prosecute violators of federal laws applicable in the Territory.[12]

12. In addition to the Federal Bureau of Investigation investigators working in the Territory in connection with the Daewoosa case since the end of 2001, more than 20 off-island auditors have been conducting audits for the Government and a number of its agencies, and preparing financial statements outstanding since 1998, as part of ongoing fiscal reform.[13]

13. In December 2002, the American Samoa Government informed the Department of the Interior that an extension would be needed for American Samoa to complete its audit for the past three years. In an attempt to rationalize the cost involved, the Government had ordered each department to conduct a review of project costs and implementation.[14]

14. As reported in the previous working paper (A/AC.109/2002/12, para. 10), the applicability of federal laws in the Territory was an underlying issue of the tax-related bill passed in the Territory in 2001. The bill would automatically block any new and future federal tax codes that "would financially hurt the American Samoa Government". The bill is not retroactive. It states that the tax laws in American Samoa will be the United States Internal Revenue Code that exists as of 31 December 2000. This measure was introduced to curb the effects of the new federal tax cuts on the local tax return claims. In particular, the Child Tax Credit federal law became a subject of discussion in the Territory by the administration and the population. According to the 2000 changes in the Child Tax Credit law, the tax return claims for dependent children had to be partially paid from the territorial Government's coffers. The territorial Government argued that its obligations to pay such claims could surpass the taxes it collected. According to the Governor, any new federal tax reform should be critically analysed and adopted by the Territory on a provision-by-provision basis. Since 2000, the local Administration has refused to pay the tax credit to tax payers because the American Samoa Government has stated that it is an "unfounded federal mandate". In October 2002, the American Samoa High Court ruled that the territorial Government was liable under the law to pay out the child tax credit, even if there was no specific revenue source.[15]

III. Budget

15. The territorial budget consists mainly of federal grants-in-aid, the annual federal allocations through the Department of the Interior and locally generated revenue. As reported in the previous working paper (see A/AC.109/2002/12, para. 11), the Government of American Samoa had experienced revolving financial problems caused by the limited economic and tax base versus the growing costs of providing government services. Attempts to reduce the persistent budget deficit had envisaged such measures as reduction in the number of public sector employees, increased fees for government services and plans to diversify the economy.

16. In its report published in 2002, the American Samoa Economic Advisory Commission recommended the reduction of the government sector and the development of a private sector as the main driving force of a self-sustaining market economy. In 2002, the Congress allocated $4.3 million for the territorial fiscal and managerial reform programme.[16]

17. The 2003 budget was introduced by the Governor at $222 million. The Governor stated that fiscal year 2003 marked a historical point at which the budget was finally balanced in revenue and expenditure, as mandated by a memorandum of agreement signed with the United States Department of the Interior in August 2002. For fiscal year 2003, the budget included $58.5 million in local revenues, $24.13 million in Department of the Interior grants-in-aid and capital improvement, $59.88 million in federal grants, and $79.60 million in Enterprise Funds. On the side of expenses, the budget included a $1 million increase for government operations. The Fono approved the budget after reallocating $65,000 from the Treasury Department to the Department of Local Government.[17]

18. According to the Department of the Interior, its 2003 assistance budget to American Samoa will be $35.3 million: $23.1 million for government operations, $10.1 million for capital improvement projects such as hospital renovations, new

classrooms, wastewater improvement, roads, ports and public safety equipment, and $2.1 million for technical assistance grants.[18] At the same time, in December 2002, the Department of the Interior decided that the level of economic assistance that each United States Territory would receive from the Department would be determined in part by the strength and independence of its public auditor's office. Additionally, the responsiveness in addressing issues raised in audits would be considered in the process of awarding discretionary grants to those Governments and to other island grant recipients.[19]

IV. Economy

A. General

19. Economic activity in general is strongly linked to the United States. About 93 per cent of American Samoa's economy is based on United States federal expenditures and the canning industry, while the remaining 7 per cent stems from a small tourism industry and a few businesses that sell exclusively to the local market. Prospects for agricultural development are limited owing to the small amount of land suitable for cultivation. The largest trading partner of American Samoa is the United States, followed by New Zealand, Australia and Fiji. Imports are mainly food (22 per cent) and petroleum products (17 per cent), machine parts, building materials, textiles and clothing; canned tuna accounts for 97 per cent of exports. In 2002, imports increased by 125 per cent from levels of the previous year in the major categories of merchandise and in particular in the subcategories of automobiles and heavy equipment.[20]

20. Tuna fishing and tuna processing plants are the backbone of the private sector, with canned tuna as the primary export, meeting 20 per cent of the United States market. This sector employs a third of the people. The Government employs another third. Attempts by the Government to develop a larger and broader economy are constrained by American Samoa's remote location, limited transportation and devastating hurricanes, as well as competition from neighbouring islands with lower wage levels and from larger, more efficient businesses in the United States.

21. In 2002, the Government of American Samoa presented to the United States Department of the Interior the results of the work of its Economy Advisory Commission. The four-volume report, entitled "Transforming the Economy of American Samoa", includes "specific economic policy recommendations that were formulated with the goal of transforming American Samoa's stagnant and struggling economy into one that is viable, diverse and self-sustaining". The Commission emphasized two guiding principles: that the United States should continue its long-standing policy of respecting the desire of the people of American Samoa to preserve and perpetuate their *fa'asamoa*, the Samoan way of life; and that the relationship between the United States and American Samoa should continue to be nurtured and enhanced. In particular, the Commission recommended focusing on growth in four industries: fisheries and agriculture; telecommunication and technology information; manufacturing; and tourism.[21] The Commission pointed to certain problems in the measurement of economic growth. Currently the Territory lacks the necessary economic and statistical data to measure adequately economic activity or to do the required comparative studies. According to the Commission,

since American Samoa was not able to calculate its gross domestic product, it lacked the ability to understand the true state of the economy.

22. According to the Commission the canneries sector continued to have a dominant presence in the Territory. However, the Commission stated that the industry was threatened by political and economic policy decisions made by the federal Government, in particular in relation with trade agreements (see also para. 24 below).

B. Agriculture and fisheries

23. Agriculture, hunting, forestry and fishing employ less than 3 per cent of the population and provide little surplus for export. The most important crops include taro, coconuts, bananas, oranges, papayas, breadfruit and yams.

24. The fishing industry constitutes 90 per cent of the Territory's economy and employs one third of its workforce. American Samoa's tuna processing industry is the fourth largest in the world. In recent years the Government has expressed concern with the Andean Trade Preference Act, which could have a strong negative effect on the tuna industry of American Samoa. Under the Act, the United States, in its effort to combat drug production and trafficking, would grant the Andean States special trade conditions, in particular duty-free import of canned tuna. The capacity of Andean countries to supply the entire United States market was seen as a threat to the local fishing industry.[22] The American Samoa delegate to the House of Representatives, Congressman Faleomavaega, lobbied an amendment to the Act that would limit the import of duty-free canned tuna to the United States. In August 2002, he announced that the United States Senate had passed the Act with revisions, which excluded canned tuna. The Congressman declared that "Although I continue to oppose duty-free treatment for tuna packed [products] in any form, I am pleased that through a united effort we have been successful in protecting American Samoa's canning operations".[23]

C. Tourism

25. Despite the Government's efforts to encourage tourism, the industry remains small. American Samoa has little tourist infrastructure, with only one hotel (80 per cent government-owned) and a total of 260 hotel/motel rooms in Tutuila and Mau'a. According to the Department of the Interior, in addition to its need for upgraded tourist facilities, the tourism industry needs increased promotion, improved skills training and increased international air travel services. According to the report entitled "Transforming the Economy of American Samoa" (see para. 21 above), the Territory is trying to establish a specific tourist market for American Samoa's national park that would offer the visitors an experience of the traditional Samoan lifestyle.

D. Transport and communications

26. There are approximately 150 kilometres of paved roads and 200 kilometres of secondary roads in American Samoa. The highway system is generally in poor shape

owing to the effect of hurricanes, the age of the roads and inadequate maintenance. The Federal Highways Administration provides funding for road rehabilitation and construction projects.

27. All the fuel needs of the Territory are met through import. In October 2002, American Samoa faced an oil shortage. The Government decided to impose fuel rationing to prevent supplies from being completely exhausted. According to press reports, the shortage occurred after a Mobil tanker cargo was turned away from Pago Pago because the fuel it carried for delivery did not meet federal standards. Later in the month fuel arriving from neighbouring Samoa helped to alleviate the crisis. Two tankers completed a total of 10 trips between the islands to replete American Samoa reserves.[24] Congressman Faleomavaega requested a full federal investigation regarding the cause of the shortage.

28. Pago Pago harbour is an all-weather deep-draught harbour. The main dock is 1,000 feet long, handling ships of up to a 32-foot draught. Pago Pago harbour provides the full complement of equipment and facilities and has a ship repair facility with a 3,000-ton marine railway. However, the general condition of the port continues to deteriorate as a result of inadequate maintenance. According to press reports, in October 2002 an oil spill of about 4,000 litres of diesel fuel damaged Pago Pago harbour.[25]

29. There are four airports in the Territory, situated on the islands of Tutuila, Ofu, Olosega, and Ta'u. Pago Pago International Airport is owned and operated by the territorial Government. It is regularly served by a number of airlines that link American Samoa with Hawaii and the United States mainland and other countries in the South Pacific. Hawaiian Air provides direct air service from Pago Pago to Honolulu. Polynesian Airlines, Air New Zealand and Air Pacific provide regional air service to New Zealand, Australia, Fiji, Vanuatu, Tonga, New Caledonia, Tahiti and the Cook Islands. The national airline, Samoa Air, flies to Tonga and other destinations and is available for charter. Domestically, Samoa Air flies regularly to Ofu, Olosega, and Ta'u Islands, and makes several flights a day to Samoa. American Samoans travel very frequently by air. Samoa alone recorded 23,000 visitors from American Samoa in the first nine months of 2001. Airport expansion programmes for Tutuila and Manu'a, which are expected to provide a boost to the local economy, are well under way.

30. In December 2002, work at the American Samoa Pago Pago International Airport began after the Federal Aviation Administration provided a $40 million airport improvement package. The cost of the 1,000-foot runway extension, designed to enable larger jets to take off with larger loads, was approximately $6.8 million, while the combined cost for the 2,000-foot paved air strip extension for small planes, the perimeter security fence and other airport structures amounted to $7.3 million.

31. A new port and airport security system has been implemented in the Territory in the aftermath of the events of 11 September 2001. Fifteen scanners and new computer systems were imported to help the Immigration Office to scan traveller's passports at both Pago Pago International Airport and the main wharf in Fagatogo. In addition, new screening methods for baggage have been implemented to help detect explosives.[26]

32. American Samoa, through the overseas communications satellite corporate link, has direct telephone dialling to most countries. There is a choice of mobile telephone service providers. Internet service to the World Wide Web is provided by the territorial Government's Office of Communications. According to the American Samoa TeleCommunications Authority, American Samoa may become part of the United States domestic calling zone, and calls from the Territory to North America will be considered domestic and not international calls. In 2002, American Samoa requested the federal communications authorities to be assigned an area code of its own. Early in 2003, it was decided that the number 684 would be used as the area code for American Samoa. At the time of publication of the present report, approval from the North American Numbering Plan was still pending.[27]

E. Water, sanitation system and utilities

33. The American Samoa Power Authority (ASPA), which is government-owned, provides water, waste-water, solid waste and electric services to customers on five of the seven islands. ASPA provides safe drinking water to 90 per cent of the Territory, with the remaining part being serviced by outer-village systems. It is responsible for restoring, maintaining and protecting the water supply during natural and man-made breakdowns. The daily capacity of the water system is 8 million gallons per day from high-quality groundwater and surface sources. Water rates are $1.25 per 1,000 gallons. According to the 2000 census, 72.3 per cent of the 10,052 housing units used the public water system and 19.6 per cent used the village water system as the source of water. In July 2001, ASPA received a $2.2 million grant/loan from the Department of Agriculture Rural Utility Service to establish the water purification facilities at Fagatogo and Pago Pago, which would provide 1 million additional gallons of water daily.[28]

V. Social conditions

A. Labour

34. The Territory is characterized by low per capita income and a significant unemployment rate. The total labour force of American Samoa consists of 17,664 workers. About one third of the labour force consists of aliens, mostly from Samoa. The largest employer, with approximately 4,282 employees, is the American Samoa Government. The Territory's per capita income is $4,357 and the unemployment rate is 12 per cent. According to the 2000 census, the income per household was as follows: 22.2 per cent of the households earned $15,000 to $24,999; 16.4 per cent earned $10,000 to $14,999; and 17 per cent earned $5,000 to $9,999. As of 1999, there were 34,745 individuals below the poverty level, including 5,072 families with children under 18 years of age, and 865 families with female heads of household.[29]

35. American Samoa is one of the two United States Territories in which employers are allowed to pay workers less than the mainland minimum wage to ensure compatibility with the prevailing cost of living.

36. Wages in the Territory are set not by federal law but by recommendation of a special United States Department of Labor committee that reviews economic

conditions every two years and establishes minimum wages by industry under the fair Labor Standards Act.

37. In June 2001, a Special Industry Committee reviewed the wages in the Territory and required the canneries to bring the minimum wages to the mainland level, unless evidence was presented that convinced the Committee that such an action would significantly curtail employment. The main cannery companies, StarKist Samoa and Chicken of the Sea Samoa Packing, opposed any increase in wages. The decision was taken to increase the minimum wages an average of 2 per cent as follows: by October 2001, government employees to $2.73; fish canning to $3.26; and shipping and transportation to $4.03. In October 2002, the wages will be set as follows: government employees at $2.77; fisheries at $3.26; and shipping and transportation at $4.09.

38. As was reported in the previous working paper (A/AC.109/2002/12, para. 30), the Government sponsored an attempt to launch a garment manufacturing sector involving foreign workers. The mistreatment of the workers by the factory management led to a class-action suit and the case against the owner of Daewoosa garment factory.

39. In March 2003, the Honolulu federal jury issued its verdict on the Daewoosa case. The defendants were found guilty of 14 of the 18 counts against them and were to be sentenced in July 2003. They could face sentences of up to 20 years in jail.[10]

40. As was reported previously, the applicability of federal jurisdiction to this case was questioned by the defendants. According to the American Samoa Government, the issue of jurisdiction has been resolved by the United Stated District Court in Hawaii. However, there is still a chance that serious legal questions will be brought to the United States Supreme Court by the defendants' lawyers. Since American Samoa is the only United States federal possession without a federal court or a federal attorney, the Government stated that in most instances when there is a lawsuit in Federal Court involving the Territory, it is brought before the Federal Court in Washington, D.C. (see also para. 11).[10]

B. Education

41. Education is compulsory between 6 and 18 years of age. The educational system in American Samoa is broadly based on the United States pattern. There are 30 public primary, 6 private and 160 village schools. According to the 2002 census, 20,830 children 3 years of age and older were enrolled in school. Of this number, 54.8 per cent were in the elementary school (grades 1-8), 22.3 per cent were in high school (grades 9-12) and the rest were in pre-school, college or graduate school. With respect to educational attainment, 39.3 per cent of the population 25 years of age and over were high school graduates; 6.9 per cent had an associate degree; 4.8 per cent had a bachelor's degree and 2.6 per cent had a graduate or professional degree.

42. American Samoa had the lowest average score in the National Assessment of Educational Progress administered nationwide by the federal Department of Education. The assessment demonstrated that 93 per cent of American Samoa's eighth grade public school students lacked a "basic" mastery of mathematics and skills that are fundamental for proficient work at that grade level. The territorial

Department of Education officials attributed such results mainly to the lack of qualified teachers owing to the low wages offered locally.[31]

43. American Samoa Community College offers two-year degree courses in arts and sciences and programmes offering certificates of proficiency in vocational and clerical skills, business and nursing. In 2001, San Diego State University started to offer bachelor and master's degree programmes in Tutuila, which would enable the student to obtain an advanced college degree without moving off-island.

C. Public health

44. Most social programmes in the Territory, including those related to public health, are funded by the federal Government. The main hospital in the Territory, the Lyndon Baines Johnson Tropical Medical Center, has 140 beds and a staff of 25 physicians. Medical, dental and pharmaceutical services are available 24 hours a day. For serious cases, off-island treatment, including hospitalization in Guam, Hawaii or the United States mainland, is provided. In January 2002, the Medical Center sharply increased the fees for its services, including ambulance, hospital beds, wheelchairs, oxygen, etc. This move had been actively discussed in the local press and in the public hearings. The hospital is partially funded through the subsidies of the Department of the Interior and the local government and used to provide services at minimum fees. However, according to the hospital authorities, the increase was needed to cover the operational costs, equipment, doctors' wages and inherited debts. For fiscal year 2003, the Medical Center received $82,000 for interior reparations and maintenance.[32]

45. In the aftermath of 11 September 2001, the United States Department of Justice provided a $382,472 grant to American Samoa to help purchase protective gear for first response personnel.[33] In addition, the American Samoa Government has also been included in the national smallpox vaccination programme implemented by the federal Government. In the first stage of this programme, medical care staff, police and fire fighters are to be inoculated.[34]

D. Crime

46. The crime rate in the Territory is relatively low. An ongoing concern in American Samoa has been the increase in driving under the influence arrests. According to the Department of Public Safety statistics, there were 214 arrests in 2000, 206 in 2001 and 342 in 2002.[35]

47. Another concern in the Territory is domestic violence and child abuse. During 2002, American Samoa held conferences and seminars on the issues and the first meeting of the new Domestic Violence Coalition offered training in preventative measures.[36]

48. In order to improve the functions of the Department of Public Safety, a new bureau, the Criminal Investigation Intelligence Bureau, became fully operative in January 2003. The new station was completed at a cost of $494,000.[37]

VI. Environment

49. According to the World Wildlife Fund, American Samoa contains one of the 10 most vulnerable forests in the world and only 0.2 per cent of the forest is protected. The Forest Service of the United States Department of Agriculture, in partnership with the territorial Government, has been implementing a number of programmes aimed at promoting the health and productivity of the Territory's forest lands. These programmes are focused on public education and tree planting, agroforestry, water resources, coastal stabilization, community beautification, late successional rainforest tree species, wood products, wildlife and conservation practices. To help mitigate the effects of human use, the American Samoa Coastal Management Program was established for the coastal zone, which includes all land (126 miles of coast) and sea within 3 miles of the shoreline.

50. In October 2002, American Samoa was awarded $1,037,000 from the Department of Commerce under the Coastal Management Program.[38] The funds are intended for coordination of territorial and federal agency programmes, public outreach, special projects and implementation of the Coastal Nonpoint Pollution Control Program.

51. In November 2002, the American Samoa Government received a grant of $348,854 from the Office of Insular Affairs for fiscal year 2003. The funds were awarded following approval of the proposal of the American Samoa Coral Reef Advisory Group, which noted that American Samoa's coral reefs are undergoing a long recovery phase, following damage by poor water quality in Pago Harbor, Crown of Thorns starfish attacks, hurricanes and coral bleaching. The Group also stated that reefs impacted by human activities were not recovering as fast as those affected by natural forces; and that overfishing of reef fish was considered the most serious threat to reef resources.[39]

52. In November 2002 the United States Senate passed a bill to expand the national park of American Samoa to the islands of Ofu and Olosega. The federal Government will make lease payments to the villages within the park boundaries worth $122,000 per year. An additional $163,000 per year will be allocated to lease additional marine and land acreage on the islands.[40]

VII. Relations with international organizations and entities

53. American Samoa is a member of several regional organizations, including the South Pacific Commission, the Pacific Basin Development Council, the Pacific Tuna Development Foundation, the Pacific Islands Association, the Asian-South Pacific Bureau of Adult Education, the Pacific Asia Travel Association, the South Pacific Regional Environment Programme and the Council of Pacific Arts. It also belongs to such United States organizations as the National and Western Governors' Conferences. The Government of American Samoa has signed memorandums of understanding with the Governments of Samoa and Tonga on mutual economic cooperation and has sent trade missions to a number of countries in the Pacific region.

54. American Samoa belongs to various regional bodies of the United Nations system, including the World Health Organization (WHO), the Regional Office for the Western Pacific and the WHO Pacific Regional Centre for the Promotion of

Environmental Planning and Applied Studies. The Territory has been an associate member of the Economic and Social Commission for Asia and the Pacific since 1988.

55. In October 2002, American Samoa joined the South Pacific Applied Geoscience Commission. The Territory is reportedly seeking assistance from the Commission in the development of its water resources and advice on reducing the risk of natural disaster.[41]

VIII. Future status of the Territory

A. Position of the territorial Government

56. In a statement made in 1993, the Lieutenant-Governor of American Samoa indicated that American Samoa preferred to remain a Territory of the United States (see A/AC.109/1159, paras. 25-31). This position remains unchanged.

57. According to press reports, American Samoa Congressman Faleomavaega and Governor Tauese Sunia both favoured that the Territory be taken off the United Nations list of Non-Self-Governing Territories. However, they expressed different views on the process to achieve that goal. According to the Congressman, after public discussion, the American Samoans should be allowed to express their views in a referendum.[42] According to the Governor, America Samoa had made its position abundantly clear and there was no need to prolong the discussion but rather to move forward with the delisting process.[43]

B. Position of the administering Power

58. In a statement made to the General Assembly at its 73rd plenary meeting, on 11 December 2002 (A/57/PV.73), a representative of the United States said that the United States could not support the draft resolution (A/57/L.52) on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. By adopting a narrow definition of decolonization, the draft resolution failed to take into account the complex reality of Non-Self-Governing Territories. For the United States, the very term "non-self-governing" seemed inappropriate for those who were able to establish their own constitution, elect their own public officers, have representation in Washington, D.C., and choose their own economic path. He noted that one of the Territories under United States administration had just held elections, in November 2002. Moreover, he said, the United States disagreed with the contention in the draft resolution that the mere presence of military activities and bases in the Non-Self-Governing Territories was harmful to the rights and interests of the people of those Territories. The United States did not support the notion that administering Powers did not have the right to take action in accordance with their national security interests.

59. The United States fully supported countries that chose independence and was proud to welcome them as equal and sovereign partners. For Territories that did not choose independence, however, the United States also supported the right of people in those Territories to a full measure of self-government, including the rights to integration and free association. The world encompassed a variety of people, places

and political circumstances, and this richness did not allow for just one path. The United States believed that a single standard of decolonization should not be applied to every Territory and it called upon all Member States to respect the choices made by the residents of Non-Self-Governing Territories.

C. Consideration by the United Nations

60. On 11 December 2002, the General Assembly adopted without a vote resolutions 57/138 A and B, a consolidated resolution on 11 Non-Self-Governing Territories, section I of Assembly resolution 57/138 B being devoted specifically to American Samoa.

Notes

[1] The information contained in the present working paper has been derived from information transmitted by the administering Power under Article 73 *e* of the Charter of the United Nations, and from published and Internet sources.

[2] Bank of Hawaii, 1997 economic report: American Samoa.

[3] BBC Monitoring Asia Pacific, 27 September 2002.

[4] BBC Monitoring Asia Pacific, 13 August 2002.

[5] The list of countries whose nationals will now experience restrictions include Afghanistan, Algeria, Bahrain, Cuba, the Democratic People's Republic of Korea, Eritrea, Fiji, Indonesia, the Islamic Republic of Iran, Iraq, Lebanon, the Libyan Arab Jamahiriya, Morocco, Oman, Pakistan, the Philippines, Qatar, Saudi Arabia, Somalia, the Sudan, the Syrian Arab Republic, Tunisia, the United Arab Emirates and Yemen.

[6] BBC Monitoring Asia Pacific, 20 December 2002.

[7] *Samoa News*, 5 November 2002.

[8] BBC Monitoring Asia Pacific, 30 October 2002.

[9] *Samoa News*, 2 December 2002.

[10] United States Census Bureau (www.census.gov/census2000/americansamoa.html), 28 January 2002.

[11] *Samoa News*, 6 August 2002.

[12] Congressman Eni F. H Faleomavaega, news release, 4 May 2002.

[13] *Samoa News*, 23 August 2001, and *Pacific Islands Report*, 18 December 2001, 15 January and 5 April 2002.

[14] *Samoa News*, 8 January 2003.

[15] New Zealand Ministry of Foreign Affairs and Trade (www.mft.govt.nz/foreign/regions/pacific/econupdate/october02/october02/amsamoa.html).

[16] Office of the Governor of American Samoa (www.asg-gov.com), 23 January 2002 and *Samoa News*, February 2002.

[17] *Samoa News*, 20 August 2002 and 27 September 2002.

[18] Ibid., 23 July 2002.

[19] Ibid., 4 December 2002.

[20] State of the Territory address presented by the Governor, 14 January 2002.

[21] Report entitled "Transforming the Economy of American Samoa", July 2002.

[22] Statement of the delegate to the United States House of Representatives before the America Samoan Legislature, 31 January 2002.

[23] United States Senate, press release, 1 August 2002.

[24] BBC Monitoring Asia Pacific, 7, 10 and 20 October 2002.

[25] BBC Monitoring Asia Pacific, 1 November 2002.

[26] Toluono, Tau (2003), "Local Immigration computerizes passport tracking system", *Samoa News*, 31 December 2002.

[27] Sagapolutele Fili (2003), "FCC approves A.S.'s request to retain 684", *Samoa News*, 9 January 2003.

[28] *Samoa News*, 23 July 2001.

[29] United States Census Bureau (www.census.gov/census2000/americansamoa.html), 28 January 2002, United States Department of the Interior Office of Insular Affairs, fact sheet, May 1998 (www.doi.gov/oia/facts.html); and Pacific Islands Report (http://pidp.eastwestcenter.org/pireport), 11 January 2002.

[30] Sagapolutele Fili (2003), "Faleomavaega calls Kil Soo Lee's guilty verdict justice", *Samoa News*, 28 February 2003; and http://www.samoanews.com/friday/FRothernews/story4.html.

[31] St. Thomas Source (www.onepaper.com/stthomasvi), 29 November 2001; and *Samoa News*, 8 August 2001.

[32] Press release, 21 November 2002 (http://www.asg-gov.com/PRESS_RELEASES/112102pressrelease.lbjhospital.htm).

[33] Sagapolutele Fili (2003), "Emergency first responder safety training set for February", *Samoa News*, 10 January 2003.

[34] *Samoa News*, 16 December 2002.

[35] Toluono, Tau (2003), "DUI arrests are up while DUI accidents are down in 2002", *Samoa News*, 8 January 2003.

[36] "The War on Domestic Violence and Child Abuse Continues", *Samoa News*, To'asavili, 4 January 2003.

[37] Toluono, Tau (2003), "Capt. Va'a Sunia named to head new DPS Bureau", *Samoa News*, 23 January 2003.

[38] Congressman Eni F. H Faleomavaega, press release, 1 October 2002.

[39] *Samoa News*, 22 November 2002.

[40] Faleomavaega, Eni (2002), "U.S. Senate passes Faleomavaega's bill to expand National Park to Ofu and Olosega", *Samoa News*, 23 November 2002.

[41] BBC Monitoring Asia Pacific, 1 October 2002.

[42] *Samoa News*, 2 August 2002.

[43] Ibid., 5 August 2002.

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Bermuda

Working paper prepared by the Secretariat

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I. Background information

1. Bermuda[1] is located in the western part of the Atlantic Ocean, about 917 kilometres east of the North Carolina coast of the United States of America. The Territory consists of 8 major islands and 130 smaller islands. The largest is Great Island, or Main Island. Hamilton, the capital, and St. George's, are the two main towns.

2. Until recently, it was considered that Bermuda was discovered in 1503. Local historians now believe the Spanish navigator Juan de Bermudez first spotted Bermuda in 1505. On the basis of the new historical evidence, the celebrations marking the 500th anniversary of the discovery of Bermuda, which had initially been scheduled for 2003, will be held in 2005.[2] In 1609, Bermuda was settled by a group of English colonists and in 1610, the first slaves were brought to work on the farms and to dive for pearls. In 1620, the first Parliament was held after the Crown granted the colony limited self-government. In 1968, Bermuda was granted internal self-government and a new Constitution. In 1995, a referendum was held on the question of independence. Of the 58.8 per cent of eligible voters who participated, which is a small number by Bermudian standards, 73.6 per cent voted against independence.

3. At the end of 2002, the Government released the official figures of the 2000 census. According to the census, Bermuda's population has grown by 6 per cent to 62,098 since the last census in 1991. The number of foreign-born inhabitants grew by 12 per cent and represented around 30 per cent of the population. The work force grew to 36,878, an 11 per cent rise over the decade. The inhabitants of African descent constituted 55 per cent of the population, while 34 per cent was of North American or European descent. The Territory is very densely populated (1,180 inhabitants per square kilometre). It is also on the list of countries with the highest urban population, as 100 per cent of its population lives in urban areas.

II. Constitutional and legal issues

A. General

4. Bermuda is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Constitution of Bermuda, adopted in 1968 and amended in 1973, 1979 and 1989, contains provisions relating to the protection of fundamental rights and freedoms of the individual. The Governor is appointed by the Queen and the Government of the United Kingdom, after consultations with the Premier. The Governor is responsible for defence, external affairs, internal security and the police. Bermuda has a parliamentary system of government. The Government of Bermuda comprises a Governor, a Deputy Governor, a Cabinet and a bicameral legislature with a House of Assembly of 40 members directly elected for a five-year term and a Senate of 11 appointed members. Five members of the Senate are appointed by the Governor, on the advice of the Premier, three on the advice of the leader of the opposition and three by the Governor at his discretion. The Territory maintains a 700-strong Defence Regiment; the adult male population is subject to military conscription, involving three years'

part-time liability for weekly drills and an annual camp. It has a police force of approximately 450 full-time officers and several hundred part-time police reserves.

5. Bermuda's law and legal system are based on English common law and principles of equity, English statute law in force since 1612 and Acts of the Bermuda Parliament passed since then. The judiciary is a separate body from the Government and its members are not elected but appointed on the advice of the Chief Justice. There are three courts presiding in Bermuda, namely, the Magistrates' Court, the Supreme Court and the Court of Appeal.

6. In October 2001, John Vereker was appointed the new Governor of Bermuda. He took office in April 2002.

7. There are three political parties in the Territory. The Progressive Labour Party (PLP) was the first party to be formed in Bermuda in 1963 to gain representation and power in a white-controlled political and economic system. The United Bermuda Party (UBP) was formed in 1964 by whites opposed to PLP policies. The National Liberal Party (NLP) seeks a middle ground. The Premier is chosen from the majority party and heads a Cabinet of no more than 14 members of the legislature.

8. Bermuda voters in the general and other elections or referendums must be over 18 years of age. They are Bermudian by birth or status, or non-Bermudian, long-term residents of Bermuda who are citizens of the British Commonwealth and were registered to vote annually since 1979. Automatic citizenship applies to children born in Bermuda, except to those without either parent being Bermudian by birth or status.

9. In the last general election in Bermuda, held on 9 November 1998, PLP won a majority of 12 seats in the territorial legislature, defeating UBP and taking power for the first time in the 35 years since the party system began in 1968. Jennifer Smith was appointed as Bermuda's first PLP Premier. PLP has traditionally been a pro-independence party, though the Premier pledged that the question of independence would not be raised in the first term of office of PLP. Since the general election, there have been three bi-elections, all won by UBP.[3] The next general election will be held in November 2003.

10. In May 2002, the Overseas Territories Act came into force after having received royal assent in the United Kingdom. The Act provides British citizenship to its Overseas Territories peoples, including Bermudians. That law allows Bermudians to hold British passports and work anywhere in the European Union.

B. Political issues

11. The question of constitutional reform proposed by the ruling PLP party continued to dominate Bermuda politics for the past year. The reform intended, among other things, to equalize the size of voting constituencies and to replace the current two-member constituencies with single-member ones. The PLP Government believed that the existing system was weighted in favour of UBP and that the election to power of PLP gave it authority to enact the reforms. The opposition argued that public consultation on the matter was essential. In 2001, UBP submitted an 8,500-signature petition to the British Government, demanding a constitutional conference or a referendum before changes were made.[4] The United Kingdom

Foreign and Commonwealth Office, which must give the final approval to any constitutional changes, insisted that "demonstrable" consultations take place before it would consider giving its approval to the proposed changes. The Premier promised to organize a series of public meetings to discuss all the proposals.

12. The Boundaries Commission, established in 2001, was entrusted with the task of making recommendations on the boundaries and on a number of constituencies (between 20 and 40) in a new single-seat electoral system, in place of the system with parish-based seats. In September 2002, the Commission presented a report to the House of Assembly that proposed a new electoral system with 36 electoral districts of similar size. Each district would send a single representative to Parliament. In October 2002, the House of Assembly approved the proposal and transmitted it, through the Governor, to the British Minister of State for Foreign and Commonwealth Affairs for approval and implementation. UBP did not prevent the proposal from passing through the Assembly, but it criticized PLP for not consulting the opposition during the preparation of the report.[5] The way the current constitutional changes have been handled represents a departure from the procedure followed on previous occasions of constitutional amendments. The Government presented its recommendations to the British Government for formal approval, claiming that sufficient consultations had already taken place within Bermuda, rather than expecting further consultations with the British Government. UBP opposed that procedure, which bypassed the consultations with the United Kingdom, and confirmed that UBP intended to fight against the new electoral system.

13. At the time of establishing the Boundaries Commission, the Order in Council categorically stated that "no account shall be taken of the racial distribution of voters in Bermuda". However, the UBP opposition pointed out that the changes had racial motivations. While the PLP representatives maintained that the reform would create parity and equality for all voters, they acknowledged that the black population of the Territory would be de facto empowered by the reforms.[6]

14. According to the Economist Intelligence Unit, the PLP Government is expected to retain power in the November 2003 election, albeit with a reduced majority. In the preparation for the coming election, the opposition UBP announced its platform, which includes returning the Attorney General to independent status, the privatization of the Ministry of Tourism, the creation of the Ministry of International Business and other changes to streamline government operations. UBP will campaign on the failure of the PLP Government to keep its electoral promises, on accusations of corruption and the poor government economic record following two consecutive years of stagnation.[7]

III. Budget

15. Despite the uncertainty of the world economy, Bermuda Government revenues continued to rise mostly as a result of the good performance of the international business sector. The 2002-2003 budget projected a 5 per cent increase in revenue over the original estimations, from the projected $609 million, to the revised $641 million, while expenditures remained essentially unchanged, falling from the original $695 million to the revised $686 million. The deficit thereby declined from the expected $85 million to $45 million. According to the Economist Intelligence Unit, the actual current revenues rose by 7 per cent during the period from January

to September 2002. While income from the payroll tax fell by 2.8 per cent, revenues from the international business companies grew by 8.5 per cent. Total government spending rose by 13.4 per cent, mostly owing to a massive increase of over 52 per cent in procurement related to public works projects. Public finance remained in surplus but the size of the surplus diminished considerably to $5.9 million from over $31 million in the previous year. The current account surplus also narrowed to $60 million in the first three quarters of 2002, down from $71 million.[7]

16. According to the Bermuda Budget Statement,[8] the 2003-2004 budget projects current account revenue of $650 million, an increase of 6.7 per cent over the original estimate for 2002-2003 and an increase of 1.4 per cent over the revised estimate. The principal sources of revenue will be customs duties ($186 million), payroll taxes ($185 million), international company fees ($49 million) and land taxes ($40 million).

17. Current account expenditure for 2003-2004 is projected to be $625 million. That expenditure is allocated as follows: Ministry of Health and Family Services, $132 million; Education and Development, $104 million; Finance, $82 million; Labour, Home Affairs and Public Safety, $85 million; Transport, $54 million; Work and Engineering, $52 million; and Tourism, Telecommunications and e-Commerce, $44 million.

18. In the 2003-2004 budget, it is projected to invest $103 million in capital expenditure, on a priority basis, in education, equipment, airport, housing, transport, health and safety. Expenditure for education includes $28 million for the further development of the second senior school, $3.5 million for three middle schools and $5.3 million for equipment. The allocation for Transport includes $6 million for airport upgrades and $2.6 million for the replacement of Somerset ferries. The allocation for Health and Family Services includes $6.6 million for rest home renovation and new development. According to the budget documents, capital grants will be provided to the National Sports Centre and the Bermuda Land Development Company, while other construction works, such as Hamilton Police Station, Magistrates Court and Residential Care Facilities, will be delayed to avoid overheating in the construction industry.

19. The public debt has a statutory ceiling of $250 million, 7 per cent of Bermuda's 2002 gross domestic product (GDP) of $3.1 billion. No tax increases will be introduced in the budget.[9]

IV. Economy

A. General

20. Bermuda has no natural resources, in the conventional sense, upon which to build a viable economy. It has historically capitalized on its location and scenic beauty and has developed a renowned tourist industry. Financial services, international business and tourism are the main economic sectors and account for the bulk of the Territory's foreign-exchange earnings. The 2000 census statistics have confirmed Bermuda's transition from a two-pillar economy based on tourism and international business to an economy based on offshore financial services with a tourism industry as a support. The public sector plays a large role in Bermuda's

economy. More than 13 per cent of the workforce is either directly or indirectly employed by the Government. Manufacturing and agriculture exist on a limited scale and therefore contribute little to the economy of Bermuda. The local manufacturing sector includes printing, fish processing, ship repair and tourist-related crafts, as well as the manufacture of paint. Agricultural activity is constrained by the small amount of land available for farming. Some production of vegetables and citrus fruits is undertaken and flowers are grown for export. Construction is becoming a more significant sector, employing 6.9 per cent of the labour force in 2000, compared to 3.2 per cent in manufacturing. Bermuda imports 90 per cent of its food requirements. Bermuda's openness to the world economy and strong links to the United States economy largely determine its pattern of economic growth.

21. Per capita GDP in Bermuda is one of the highest in the world. According to *The Economist*, it is $41,000. At the same time, Bermuda's high cost of living relegates it to ninth place on the list of countries with the highest purchasing power. Preliminary estimates of GDP growth in 2002 suggested a modest increase of 1 per cent ($3,579.3 million) following the 1.2 per cent growth in the previous year. Inflation was 2.3 per cent. There was a 0.5 per cent increase in employment in 2002.

22. Although 11 September 2001 events had led to a fall in tourism, the loss of revenue was compensated by the boost in insurance activity. That sector is still growing and Bermuda has over 1,400 exempted insurance companies with an aggregate capital and surplus in excess of US$ 100 billion. That capital and surplus is divided between the self-insurance and the commercial reinsurance markets. The Bermuda market is often described as an alternative risk transfer (ART) market, but it has evolved into a significant global centre for traditional insurance and reinsurance needs as well.

B. Financial services

23. Foreign banks are not allowed to operate in Bermuda; as a result, local banks benefit from a quasi-monopoly in handling lucrative international business operations for offshore clients. The Bank of Bermuda, founded in 1889, is ranked as the world's 684th largest bank and the Bank of Butterfield is ranked 795th. A third bank, the Bermuda Commercial Bank, founded in 1969 and the only bank that is owned by Bermudians of African ancestry, was acquired in 1993 by First Curaçao International Bank, based in the Netherlands Antilles. There is no central bank in Bermuda. Instead, the Bermuda Monetary Authority is the regulatory authority of banks and trust companies. Bermuda is one of the world's leading offshore financial and business centres and the third largest insurance market.

24. Although the 11 September attacks had an enormous effect on the insurance market, the capital and reserves were adequate to meet all the claims. Moreover, the long-term effect on that sector of the economy was positive with the attraction of new capital and major new reinsurers to the Territory. In fact, the insurance industry has experienced a period of rapid growth and remains the most active part of the financial sector. In 2002, growth was driven by the formation of more than 100 new reinsurers. Bermuda offers to the reinsurance industry an effective partnership between the private and public sector and has become the domicile of choice for the insurance and reinsurance market.

25. As was reported in the previous working paper (A/AC.109/2002/15, para. 23), Bermuda had been trying to develop its e-commerce business along the same lines as its insurance industry since 1999, namely concentrating on corporate headquarters rather than on massive sales operations. However, the failure of that strategy has led the Government to rethink Bermuda's position and policies in the sector. According to the Economist Intelligence Unit, the Government is preparing a Green Paper outlining its legislative and administrative intentions. The Green Paper will replace the National Plan and will be presented later in 2003.[13]

26. As was reported in previous working papers (A/AC.109/2001/9, paras. 39-41 and A/AC.109/2002/15, para. 24), Bermuda's international financial system has come under scrutiny by the Organisation for Economic Cooperation and Development (OECD). Owing to the fact that Bermuda agreed to bring its practices up to international standards, it was not included on the lists of uncooperative jurisdictions.

27. During the period under review, Bermuda continued to improve its legislation related to financial services. In particular, the Insurance Amendment Act 2002, which came into force in October 2002, provided the Bermuda Monetary Authority (BMA) with new powers to obtain information and reports from insurers. The Act gave BMA the legal authority to introduce on-site supervisory review for long-term Bermuda insurers. At the beginning of 2003, the Companies Amendment Act 2003 introduced an alternative to traditional financial regulations, replacing it with a more flexible system. The new system will conveniently allow existing Bermuda clients to form companies in non-restricted sectors in a single day, while restricted areas such as financial services and brokerage would require more formal registration and licensing procedures. Activities such as armaments, gambling and pornography remained off-limits under the new legislation and were more clearly defined. According to the Economist Intelligence Unit, the new Act contains the most comprehensive amendments to corporate law and addresses a wide range of financial operations. The Act suits the requirements of the various international initiatives that had reviewed offshore business activity in the past four years. The Act also provides new powers for the Minister of Finance to obtain information in order to assist foreign regulatory authorities.

28. Nevertheless, during 2002, OECD continued to exercise pressure on the jurisdictions it had originally targeted. In April 2002, it unveiled a model agreement for effective information exchange, which would target taxes on income or profits, capital, net wealth and on estates, inheritances and gifts. In their turn, the targeted jurisdictions, including Bermuda, entered jointly into negotiations with OECD in order to protect their sovereignty and the privacy of their clients. From 26 October to 1 November 2002, the Government of the Cayman Islands hosted a meeting of the OECD members with representatives of the targeted jurisdictions.[14]

29. Another subject affecting so-called tax havens, namely the issue of cross-border taxation of savings accounts, including in offshore financial centres, has been discussed within the framework of the European Union since 1998. According to the information provided by the administering Power, the issue was discussed, among other things, during the meeting of the Overseas Territories Consultative Council in London in September 2002. The Prime Minister of Bermuda argued that the automatic exchange of information requirements under the draft directive prepared by the European Union were a significant departure from the existing arrangements

for supplying information on request. The proposed new system would be intrusive and resource-heavy. According to the Prime Minister, Bermuda had yet to see a compelling case for a change. She also noted that securing the commitment of all jurisdictions to the directive would be a necessary prerequisite for Bermuda's compliance. The Under-Secretary of State for the Foreign and Commonwealth Office recognized the importance of "a level playing field" for all jurisdictions. She stated that the OECD member States would have to remove "the harmful aspects of the preferential regimes" by April 2003 and committed jurisdictions by December 2005. Nevertheless, she threatened that OECD could take defensive action against tax havens that did not commit to transparency and an exchange of information. Following the request of the Government of the United Kingdom in October 2002 that the Caribbean Overseas Territories provide details of all savings account holders registered in the Territories by 15 November 2002, the Ministers of those Territories, including Bermuda, held an emergency meeting in the Cayman Islands. Although the Territories reaffirmed their willingness to cooperate, they stressed the need for a fair, transparent and non-discriminatory approach to the problem.[15]

30. During 2002, the United States Senate discussed measures to stop American companies from establishing their activities in Bermuda to save in taxes on earnings. Since 1994, 13 American companies have incorporated in Bermuda, while keeping their headquarters in the United States. According to press reports, Bermuda also attracted other offshore activities in the area of intellectual property, such as trademarks and patents. In July 2002, the United States House of Representatives voted against a proposal to ban Federal contracts for companies moving to Bermuda. However, new proposals remain under consideration to change the regulation on dividends taxes and capital gains. Those regulations, if approved, could make Bermuda less attractive for corporate investors because they would reduce the incentive for companies to be based offshore.[16]

C. Tourism

31. Bermuda's tourism sector has continued its steady decline that began in the 1980s. The decline is mostly attributed to increased competition from cheaper destinations and the rapid growth of cruise ship tourism as a rival to stopover tourism throughout the Caribbean. The stopover subsection, whose clients tend to spend more money in the Territory, is losing market share to the cruise ship subsection, whose contribution to the economy of the Territory is minimal. In addition, the fact that 80 per cent of stopover visitors are from the United States makes Bermuda vulnerable to economic fluctuations in that country. Travel industry experts pointed out high prices, costly transportation, lack of direct flights from continental Europe and a scarcity of high-end entertainment among the problems facing the sector.

32. As was reported previously (A/AC.109/2001/9, paras. 33-34) the Government's management of the tourism sector has become a matter of political contention. The Government continues to consider that the tourist sector should measure its achievements not by the number of visitors but by the amount of acquired revenue. In an effort to boost tourism earnings, the Government hired consultants to formulate a Five-Year Development Plan, the first phase of which started in 2000 but has yet to produce results.[17] Other measures to halt the decline of the sector have been taken, such as granting tax concessions for hotel construction and plans to boost Bermuda as a luxury destination.

33. As was reported in the previous working paper (A/AC.109/2002/15, para. 27), after a disappointing 2001, the Bermuda tourist sector was hoping for a recovery in 2002. However, the results turned out worse than expected. Although Bermuda received more visitors than in 2001, the numbers were still lower than in preceding years. Cruise ship traffic, which accounts for only one tenth of tourism earnings, has increased at a more rapid rate than stopover tourism. For the first 11 months of 2002 a total of 471,635 visitors arrived on the island, 20,000 more than in 2001. Total tourist expenditure in the first nine months of 2002 was $321 million, 5.1 per cent higher than in the same period of 2001. At the National Tourism Conference in December 2002, the Government held talks with 15 airlines to attract new carriers to the Territory within the next two years. In 2003, the Government plans to increase its spending in advertising campaigns for tourism.[18]

D. Construction

34. According to the Economist Intelligence Unit, the construction industry continues to benefit from private and public sector investment. The total value of construction put in place only in the third quarter of 2002 showed an increase of 20 per cent compared to the previous year, with homebuilding accounting for around 60 per cent of the total. Of the projects started during the quarter, more than half corresponded to the Bermuda Housing Corporation (BHC). The Berkeley project for a new secondary school was in the spotlight of the construction industry during all of 2002 for its continuing delay and increasing costs. The project contract for the new school was awarded in May 2001, but it is not expected to open before 2004 owing to delays, labour-related problems and the negative report of the Auditor General.[19]

E. Transport and communications

35. Bermuda has a network of about 225 kilometres of paved public roads and another 400 kilometres of private roads. The number of cars licensed to operate on Bermuda's roads has increased by 70 per cent since 1980. During 2002, the Government discussed reforms on the Motor Car Act, such as increasing the sizes of vehicles allowed, changes in the purchase of vehicle regulations and driving licence system improvements. The bill was passed in June 2002.[20]

36. Airport services are reported to have improved considerably in recent years. There are regular and well-established services between Bermuda and the United States and to the United Kingdom.

37. According to the information provided by the administering Power, in September 2002, during the meeting of the Overseas Territories Consultative Council in London, the issues of the compliance with International Civil Aviation Organization standards and of aviation safety were discussed. The Prime Minister of Bermuda maintained that Bermuda airport already had very high safety standards and that it had received an award as one of the best airports in North America. For those reasons, her Government was not prepared to provide funds to improve safety in other Territories.

38. Hamilton serves as the main port in the Territory and supports container facilities, whereas port services are provided at St. George's and Ireland Island, a free port. In 2000, it was proposed to enlarge Hamilton docks in order to

accommodate larger cruise ships. There remained, however, fear that such a measure could put extra strain on the environment and infrastructure. In 2002, business leaders asked the Government to allow megaships to stop regularly in Bermuda. As an example of the possible advantages, they mentioned the arrival of the cruise line Triumph, which boosted revenues in dockyard by 100 per cent in June. Restaurants, water sports companies, taxis and businesses also benefited from that visit. The Government has so far followed a policy against megaships, but has not taken an official position on the new demands.[21]

39. According to *The Economist*, Bermuda leads the world in the number of telephone lines per 100 people (85.7). In Bermuda, 43.7 per cent of the population own computers, which puts the Territory in eighth place in the world, ahead of the United Kingdom.[22]

V. Military issues

40. As reported in previous working papers (A/AC.109/2000/13, paras. 17-21 and A/AC.109/2002/15, paras. 35-36), the armed forces of the United States and the United Kingdom shut down their installations on Bermuda in 1995. The economic disruptions caused by the base closings for the most part seem to have been absorbed. Yet an important issue was the request made by the Government of Bermuda to the Government of the United States requesting the latter to clean up the areas of the island that it had polluted during its military presence. The Government of the United Kingdom cleaned up areas under its control before leaving Bermuda, but the Government of the United States had refused to do so. In 1998, the British Government took the lead in negotiations with the United States over cleaning up environmental damage at the former base lands. A 1997 study estimated clean-up costs at $65.7 million.

41. The base lands deal was negotiated by the British Government and resolved that Bermuda is to receive $11 million from the United States for the maintenance of Longbird Bridge and for the clean-up. On 18 June 2002, the Government of Bermuda accepted that deal as the full and final settlement of the 1941 United States Bases Agreement. Consequently, the Government of Bermuda agreed to pay the costs of the clean-up. The United States is also considering the possibility of providing a Coast Guard vessel and training in the United States for the Bermuda Regiment. The UBP opposition party claimed that the real cost of clean-up would be $65 million. The deal annuls the 1941 Leased Bases Agreement and the right of the United States to reoccupy the former Naval Annex at Southampton and the Naval Air Base at St. Davis. The United Kingdom declared that Bermuda had the responsibility for the clean-up of the former bases, but that Britain would provide technical support.[23]

VI. Social conditions

A. General

42. While Bermuda's GDP is among the highest in the world, redressing inequalities in wealth on the island has been a priority for the current Government, which has emphasized social development and has accordingly channelled increased resources towards human services areas such as health, education, housing and social welfare.

43. According to the 2000 census, median income has increased to $71,662 in Bermuda.[24] However, income inequalities based on race, gender and nationality have persisted. Pension income data were collected by the 2000 census for the first time in Bermuda. Persons over 54 years of age reported an average pension income of $11,286.

B. Labour

44. With near-full employment and full pension coverage for Bermudians, most labour issues concern the quality of work available and the effect of foreign workers on the Bermuda labour market. In 2001, the Government set a six-year limit on work permits for foreign workers to ensure that more Bermudians are recruited and trained for the best jobs. According to press reports, the new rules and restrictions on work permits are in line with the PLP manifesto and show the attention of the PLP Government to racial issues. In 2002, the Immigration Office reported that it had issued between 7,500 and 8,000 new work permits, compared to 7,263 in 2001.[25]

45. The 2000 census shows the dependence on the foreign labour force, especially in professional jobs. The report also shows that the capital of Bermuda, Hamilton, employs two out of five workers. In 2000, 85 per cent of the population of working age was employed, up three percent from 1991. The biggest decline in employment was in the hotel sector, down 22 per cent, making it the ninth largest employer, whereas it was the second largest a decade ago. However, jobs with international companies soared 65 per cent. Business services also jumped from 1,692 to 3,198 employees. Another sector that grew considerably was education, health and social work, with the number of employees rising from 3,055 to 4,026. The census also showed that women in technical jobs outnumbered men, but men held more administrative and managerial positions. The number of working women rose from 76 per cent to 80 per cent. By race, whites held more professional jobs and were more likely to be managers or administrators, while blacks were mostly clerical, service and production and transport workers.

46. In 2002, the Bermuda Trade Union (BTUC), an organization that includes 7 of the 10 existing trade unions on the island, was granted legal status by the Senate. BTUC will not have the power to negotiate with employers or to call strikes, but will serve more as a consultative body over labour issues. In addition, the new status will allow its delegates to represent Bermuda at International Labour Organization conferences.[26] During 2002, teachers and taxi drivers protested their working conditions and regulations. The teachers claimed that new civil servants with a bachelor's degree were paid $51,041, while teachers without a degree earned $46,827. Because of those alleged disparities, in October 2002, the teachers started a strike that the Government declared illegal.

47. Protests by taxi drivers were caused by the introduction of a new tracking system based on global positioning system (GPS) technology. In May 2002, taxi drivers argued that the decision was undemocratic and went on strike. In June 2002, the Motor Car Amendment Act made the GPS system mandatory for taxis with a grace period of 18 months for installation.[27]

C. Education

48. Education in Bermuda is compulsory for all children from 5 to 16 years of age and is free in government schools. The literacy rate is high: 98 per cent of all males and 99 per cent of females 15 years of age and over can read and write. There are 39 State schools — 30 primary, 5 middle, 2 secondary and 2 special schools. There are some private schools as well. In the 2000-2001 academic year, 6,378 students were enrolled in government schools and 3,612 in private schools, with a further 950 on waiting lists. There are 12 pre-primary schools in Bermuda, serving approximately 452 pupils. There are 713 teachers in the State school system.

49. There are no degree-conferring universities in Bermuda. The Government awards a number of scholarships each year to young Bermudians accepted at universities in the United States, Canada and the United Kingdom. Scholarships are also awarded by local banks, principal law firms and Bermuda-based international companies. Under the Government's National Education Guarantee Scheme, begun in 1994, no Bermudian student with university potential is denied an opportunity for further education owing to a lack of funds.

50. Bermuda considers the high level of education of its inhabitants to be a major component of its comparative advantage relative to other offshore centres. According to the 2000 census, Bermuda residents are better educated than in 1991, with 20 per cent of residents holding university degrees. The census also revealed a serious disparity between white students going to private schools (three quarters) and the black students attending the government educational system. Private schools are also growing in number, while there was a decline in the number of students enrolled in the public school system, from 77 per cent in the last decade to 62 per cent currently. The number of individuals in senior school fell by 6 per cent, whereas the number of university degree holders grew by 9 per cent. The number of black Bermudians holding degrees has risen from 1,730 to 2,844 since 1991. At the same time, the proportion of black inhabitants without academic certification dropped to 34 per cent. Higher education is strongly linked to higher incomes, $54,488 being the average income for those holding the bachelor's degree and $28,256 for those without formal certificates. The same relation exists for those holding the master's degree ($63,834) and the Ph.D. degree ($75,710).

D. Public health

51. Medical care is provided by private practitioners and three government health clinics. Fees are charged for hospital care and medical insurance is compulsory for all workers. A hospital levy covers the cost of services rendered by the hospitals to children under 16 years of age. Indigent persons over 65 years of age pay 20 per cent of hospital costs. According to the Health Insurance Association of Bermuda, the cost of health care has increased 100 per cent over the past decade owing to greater technology, an ageing population and more demanding patients.

52. At the end of 2002, doctors and health insurers reached an agreement for a new fee coding system. That agreement ends a dispute between insurers and doctors about how much the insurance should cover and on the methods of payment. New fees will also be renegotiated for implementation in 2003.[28]

53. According to *The Economist*, Bermuda ranks sixth in the world for the incidence of AIDS. Press reports indicate a decline in the number of new cases of AIDS, while sexually transmitted infections (including gonorrhoea, herpes and syphilis) have been rising rapidly. In 2002, seven new cases of HIV/AIDS were reported, raising the number of persons in Bermuda affected by the virus to 475.

54. The National Drug Commission received $6 million in the 2002 budget. During 2002, the Commission was criticized for its handling of public funds, in particular for the decision to close the only drug rehabilitation centre for women, Fair Haven. In January 2003, facing the protests of the inhabitants of the island, the authorities withdrew the decision, but the future of that institution remains unclear.[29]

E. Housing

55. Housing prices are high in Bermuda and a shortage of residential housing still exists. The Government continued to support the Bermuda Housing Corporation, which it created to solve the housing crisis of the 1980s and to provide affordable housing to low-income families in Bermuda. In the period 2001-2002, the Corporation received a non-recurring grant increase of $1.2 million to stabilize its cash flow position until it begins to receive rental income from its new additions to the rental stock. Once that income begins to be generated, the Corporation's grant would be reduced to its former level of approximately $2.5 million.

56. Statistics in the 2000 census showed that the number of units in the island increased by 12 per cent, bringing the total to 24,761. With an average of 2.47 persons per household, at least 385 more units were required. The census also showed that while the number of available houses had increased, single women with children still suffer discrimination in the market.

57. In March 2002, the Auditor General and police began conducting an investigation of alleged cases of corruption within the Corporation. In September 2002, a new Minister of Housing was designated by the Premier. The new Minister took over the responsibility for the Bermuda Housing Corporation as well as the Bermuda Land Development Company.[30]

F. Immigration

58. The strength of Bermuda's economy and its consequent need for labour has made immigration a permanent feature of Bermuda's socio-economic profile. Under the 1968 Constitution, Bermuda has the authority to determine its own immigration policy. Many immigrants have stayed in Bermuda and have been granted residency status. As was reported previously (A/AC.109/2002/15, paras. 49-51), the Territorial Government has been continuously trying to control unauthorized residency in Bermuda.

59. In July 2001, the Government announced that hundreds of long-term foreign residents in Bermuda, long denied equal rights to home ownership and employment, would be eligible for citizenship. In December 2002, the Government began to process the applications of long-term residents who were hoping to get Bermudian status and permanent resident's certification (PRC). Around 400 long-term residents were eligible for the status and a further 1,100 could be expected to apply for PRC.

There are 2,000 foreign residents who have been living on the island for 20 years or more. PRC would give them the right to work and retire in Bermuda. The applications follow changes made in the Bermuda Immigration and Protection Act in 2002.[31]

60. At the same time, the Government is trying to fight illegal immigration. In particular, a new measure taken by the Government requires Jamaican visitors to hold a visa to enter the Territory. That measure came into force in January 2003 and was labelled as discriminatory by the leader of the Jamaican Association in Bermuda. The officials justified the measure with the increase in drug smuggling coming from Jamaica.

61. As part of the measures taken to improve security after the events of 11 September, the Department of Immigration and Naturalization of the United States decided that permanent residents travelling to the United States from Bermuda will need a visa to enter the country.[32]

G. Human rights and related issues

62. As reported in a previous working paper (A/AC.109/2001/9, para. 74), Bermuda is covered by the human rights conventions, pursuant to accession thereto by the United Kingdom. The Government of the United Kingdom continued to insist that Bermuda's legislators should promote European standards on human rights issues, in particular on sexual discrimination.[33]

H. Crime

63. The new visa regulations for visitors coming from Jamaica were established in part because of problems related to drug trafficking. Jamaica is considered to be the main point for smuggling Colombian cocaine into Britain and the United States, as well as the major supplier of marijuana.[34] During 2002, the arrests of a number of Jamaican citizens at the airport induced the Government to step up its efforts to fight drug trafficking. According to press reports, violence and tension related to drugs have also increased in the local Jamaican community.[35]

64. While Bermuda does not make it onto lists of countries with the highest crime statistics, its prison population statistics are quite different. According to *The Economist*, at 447 prisoners per 100,000 population, the island's lock-up rate is the seventh highest in the world. Since approximately 80 per cent of offenders who have served time in Bermuda prisons have returned to institutions within 12 months of their release, the Prisons Commissioner proposed the recruitment of specialized professionals in the reintegration of prisoners.[36]

VII. Relations with international organizations/arrangements

65. As was reported previously (A/AC.109/2002/15, para. 63), Bermuda has observer status in the Caribbean Community (CARICOM) and Common Market. Recently, it wanted to become an associate CARICOM member. In 2002, the British Government approved the decision on condition that it would not interfere with external relations, defence or security. According to press reports, the Premier said,

"We have long desired to strengthen links between Bermuda and the islands of the Caribbean. We already have formal and informal links and share many similarities with the Caribbean."[37] However, the opposition UBP opposed the stance because of the economic implications of becoming a full member of CARICOM. The UBP leader pointed out that "Bermuda has cultural and social ties with the Caribbean and these are good links to have. We don't need CARICOM to strengthen these ties. Bermuda interests are more with the United States and the European Union and less with the Caribbean."[38] The debate will move to Bermuda's Parliament when it discusses the issue in 2003.

VIII. Future political status of the Territory

A. Position of the administering Power

66. On 1 October 2002, the representative of the United Kingdom made a statement before the Special Political and Decolonization Committee (Fourth Committee) (see A/C.4/57/SR.3) in which she said that her Government, as an administering Power, was pleased to report that further progress had been made towards modernization and development of the relationship between the United Kingdom and its Overseas Territories. The fourth annual meeting of the Overseas Territories Consultative Council had been held in London in September 2002, providing a forum for structured political dialogue between democratically elected chief ministers and ministers of her Government with regard to the relationship, based on partnership, between the United Kingdom and its Territories. It had also enabled those present to consult on matters such as the process of constitutional review, human rights and environmental issues arising from the United Kingdom's international commitments.

67. The partnership between the United Kingdom and its Overseas Territories continued to evolve: on 26 February 2002, the British Overseas Territories Act had become law, with effect from 21 May 2002, granting citizens of the Territories British citizenship, with right of abode in the United Kingdom and freedom of movement in Europe; it formally changed the nomenclature from "dependent" to "overseas" Territories in order to reflect more accurately the nature of the relationship. Furthermore, constitutional review was under way in almost all the Territories, for the first time with the participation of locally appointed review commissions, with a view to providing each Territory with a modern constitution suitable for its long-term development which reflected its specific circumstances. Some reviews were almost complete, others were well under way and Ascension Island, for example, would have elected an island council by the end of 2002.

68. The representative of the United Kingdom added that work was under way to implement the Guiding Principles of the Environment Charter for the Overseas Territories, adopted in September 2001. Pilot projects had been approved for two Territories and would be carefully monitored for suitability elsewhere. Multilateral environmental agreements would be extended to the Territories and national legislation would be strengthened. Projects had been implemented to address key areas such as habitat restoration, surveys of living resources, tackling of invasive species and capacity-building for civil society institutions. Her Government would also assist the Territories to access regional and bilateral European Commission

trade, economic and development assistance within the framework of the November 2001 Overseas Association Decision.

69. The wishes of the peoples of the Territories, exercised in accordance with the Charter of the United Nations and other international treaties, were of paramount importance for the United Kingdom. The relationship between her Government and its Territories was based on fundamental principles such as self-determination, mutual obligations, freedom for the Territories to run their affairs to the greatest degree possible and the firm commitment from her Government to help the Territories economically and during emergencies.

70. The representative of the United Kingdom said that there was a basic commonality of approach between her Government and the Committee and she therefore regretted that relevant resolutions, in particular those of the Special Committee on decolonization, did not always properly reflect that commonality. The annual omnibus resolution recalled that there was no alternative to the principle of self-determination and it was unfortunate that the Special Committee continued to apply that principle selectively. Her Government fully intended to continue to work with the Special Committee, as had been demonstrated at the regional seminar of the Special Committee held in Fiji in 2002.

B. Consideration by the United Nations

71. On 11 December 2002, the General Assembly adopted, without a vote, resolutions 57/138 A and B, section B.III of which concerns Bermuda.

Notes

[1] The information contained in the present working paper has been derived from published sources, including Internet sites.

[2] NewsEdge, 14 February 2002.

[3] *The Royal Gazette*, 12 October 2002.

[4] *The Europa World Year Book*, 2001, Bermuda.

[5] *The Royal Gazette*, 12 October 2002.

[6] Ibid., 4 January 2002.

[7] www.eiu.com.

[8] Ibid.

[9] www.bermudasun.org, 14 February 2003.

[10] www.deloitte.bm (Bermuda Budget Summary).

[11] www.deloitte.bm (Guide for International Business in Bermuda).

[12] *Financial Times*, 22 November 2002.

[13] www.eiu.com.

[14] http://www.oecd.org/EN/document/0,,EN-document-103-3-no-12-36128-0,00.html.

[15] *Wall Street Journal*, 22 November 2002.

[16] Ibid., 13 January 2003.

[17] Ibid., 10 December 2001.

[18] Ibid., 9 December 2002.

[19] Ibid., 24 December 2002.

[20] Ibid., 17 July 2002.

[21] Ibid., 8 July 2002.

[22] Ibid., 7 November 2001.

[23] Ibid., 22 July 2002.

[24] Ibid., 11 July 2002.

[25] Ibid., 16 June 2002.

[26] Ibid., 11 July 2002.

[27] Ibid., 8 June 2002.

[28] Ibid., 3 December 2002.

[29] Ibid., 11 January 2003.

[30] Ibid., 9 October 2002.

[31] Ibid., 19 December 2002.

[32] Agence France Press, 31 January 2003.

[33] Ibid., 22 July 2002.

[34] Ibid., 9 January 2003.

[35] Ibid., 11 December 2002.

[36] Ibid., 21 August 2002.

[37] *Financial Times*, 22 November 2002.